00024291

THE
ASIATIC SOCIETY OF BOMBAY
Town Hall, Bombay.

Digitized with financial assistance from the
Government of Maharashtra
on 19 September, 2016

LIVES OF

EMINENT SERJEANTS-AT-LAW.

LIVES

OF

EMINENT SERJEANTS-AT-LAW

OF THE

ENGLISH BAR.

BY

HUMPHRY WILLIAM WOOLRYCH,

Serjeant-at-Law.

24291

IN TWO VOLUMES.

1869

VOL. I.

LONDON:

WM. H. ALLEN & CO., 13, WATERLOO PLACE,
PALL MALL. S.W.

1869.

00024291

Lewis & Son, Printers, Swan Buildings, Moorgate Street.

TO THE RIGHT HONOURABLE

Edward Geoffrey Smith Stanley,

EARL OF DERBY, K.G.,

ONE OF

HER MAJESTY'S MOST HONOURABLE PRIVY COUNCIL.

Chancellor of the University of Oxford,

THESE

"LIVES OF EMINENT SERJEANTS,"

WITH HIS LORDSHIP'S PERMISSION,

ARE RESPECTFULLY DEDICATED.

LIST OF THE SERJEANTS CONTAINED IN THESE LIVES.

1. ADAIR.
2. BARHAM.
3. BARNARDISTON.
4. BENDLOES.
5. BOND, NATHANIEL.
6. BOND, GEORGE.
7. BONYTHON.
8. CALLICE.
9. CARTHEW.
10. CHAUNCEY.
11. CHESSHYRE.
12. CONYERS, WILLIAM.
13. CONYERS, TRISTRAM.
14. CREW.
15. DARNALL, JOHN, Senior.
16. DARNALL, JOHN, Junior.
17. DAVYS.
18. DAVY.
19. FINCH.
20. FLEETWOOD.
21. GLANVILE.
22. GLYN.
23. HARDRES.
24. HAWKINS.
25. HELE.
26. HEYWOOD.
27. HILL.
28. HITCHAM.
29. HOOKE.
30. HOSKINS.
31. KELYNG.
32. LEEDS.
33. LENS.
34. MAYNARD.
35. METHOLD.
36. MORE.
37. ONSLOW.
38. PELL.
39. PLOWDEN.
40. PRIME.
41. ROW.
42. SALKELD.
43. SELLON.
44. SHEPHERD.
45. SKINNER.
46. SKIPWITH.
47. STRODE, GEORGE.
48. STRODE, THOMAS.
49. THOMPSON.
50. TOLLER.
51. TREMAINE.
52. TRENCHARD.
53. WHITAKER.
54. WHITLOCKE.
55. WILKINS.
56. WILLES.
57. WILLIAMS.
58. WYNNE.

THE SERJEANTS-AT-LAW, 1869.

The Queen's Chief or First Serjeant.

[Vacant].

The Queen's Ancientest Serjeants—2.

[Vacant].

The Queen's Serjeants.

[Vacant].

Serjeants-at-Law having a Patent of Precedence.

1. JOHN ALEXANDER KINGLAKE, M.P.
2. WILLIAM BALLANTINE.
3. JOHN HUMFFREYS PARRY.
4. JOHN SIMON, M.P.

Serjeants-at-Law.

5. STEPHEN GASELEE.
6. EDWARD BELLASIS.
7. EDWARD SANDYS BAIN.
8. ROBERT MILLER.
9. GEORGE ATKINSON.
10. HUMPHRY WILLIAM WOOLRYCH.
11. SIR MORDAUNT LAWSON WELLS, KNT.
12. WILLIAM PAYNE.
13. JOHN TOZER [Treasurer of Serjeant's Inn].
14. CHARLES PETERSDORFF.
15. PETER BURKE.
16. THOMAS WHEELER.
17. MICHAEL O'BRIEN.
18. FREDERIC LOWTEN SPINKS.
19. ALEXANDER PULLING.
20. HENRY TINDAL ATKINSON.
21. BENJAMIN COULSON ROBINSON.
22. EDWARD WILLIAM COX.
23. WILLIAM CAMPBELL SLEIGH.
24. AUGUSTINE SARGOOD.

PREFACE.

In attempting the undertaking, at once difficult and interesting, of a biography of the eminent Serjeants-at-Law of England, we have selected those Serjeants who have arrived at a high position; and some who have distinguished themselves independently of their profession.

Sir John Maynard, one of the most remarkable men of his or of any other time, stands conspicuous as a lawyer, a senator, and a politician. . . . . Bulstrode Whitelocke, who added the powers of the diplomatist as well as the accomplishments of the man of the world to law and politics, was scarcely his inferior.

Plowden is an ornament to our history. Those who will take the trouble to trace his honourable career, will find abundant testimony to the knowledge which the Follett of our day might have regarded without envy. They will respect the calm

adherence to his religion which compelled the sacrifice of those great honours from which, had he been a Protestant, he would not have been excluded. The Great Seal was tendered to Edmund Plowden, but he declined to exchange his creed for high dignity.

Sir John Davys, the "sweet poet" as he is called, a good and prosperous lawyer, so eminent indeed, that had he not been overtaken by sudden death, he would have succeeded Sir Ranulph Crew as Lord Chief Justice, deserves a most honourable mention. He was likewise an author, and an acute politician. Speaking of authors, an account of the historian of Hertfordshire, Sir Henry Chauncey, whose name and labours still survive in much esteem, will be found in its place. Fleetwood, the celebrated Recorder of London, the opposite of Plowden in his creed, and rampant with religious zeal, has been fully handed down to us through the diligence of Strype. . . . . The materials for a notice of Hawkins seem very scanty. Inquiry after the eminent author has been made, but not with much success. He was, however, descended from the great admiral. He was the writer of the work, "The Pleas of the Crown," which, until the late revolutions in the criminal law,

occupied a place by the side of that great authority, Sir Matthew Hale. . . . . .

In passing on, the matchless notes to the Reports of Chief Justice Saunders compel us at once to acknowledge the learning and intellect of Mr. Serjeant Williams. Saunders's book was called "the Bible of Pleaders," and the Serjeant was his distinguished commentator. His success as an advocate would likewise have claimed for him a place amongst our chief Serjeants.

We have not failed, moreover, to revive as we best could the recollections of those great advocates who have been men of politics: of Glyn, the supporter of Wilkes; Adair, Chief Justice of Chester; Lens; Sir John Trenchard, of the days of William III., the only Serjeant who has received the seals of Secretary of State, and others. Yet it is by no means to be concluded that the names not particularly mentioned in this Preface did not belong to men of renown.

> "Now by my faith, said then our king,
> Sith 't will no better be;
> I trust I have in this my realme,
> Five hundred as good as he."

[Courtesy and good-will have been bountifully extended to me. With such help, I have obtained

many original papers. Upon these I, of course, attach considerable value. Feeling that it might be inconvenient to specify each friendly donor in a preliminary notice, I have thought it best to place a note of acknowledgment at the commencement of each life.]

Before we conclude these preliminary observations, we must call attention for a very brief period to the subject of anecdotes in general. These stories of men and things must have a very liberal allowance permitted to them. Many are true, very many only partially so, yet, very few indeed are pure inventions. We must apply these remarks to the present undertaking. In dealing with groups of numerous anecdotes it seems the safer course scarcely to reject any. Occasionally we meet with the same tale related differently. This is a confirmation of its truth. Thucydides observes, that if six persons are witnesses of the same event, each will be apt to propound his own version of it. A story is sometimes attributed to the wrong person, but still the facts are the same. Too fastidious a criticism would have a tendency to shut out most valuable materials. We have, therefore, preferred to abide by Dr. Johnson's maxim, "to tell

all we know." The sagacity of the reader must be called in aid to detect improbabilities, to winnow the wheat, and to adopt at once the narrative which bears upon it the stamp of truth. Diaries afford us an important source of authentic intelligence. From a writer of established reputation, especially when he is collecting separate memoirs, or writing an individual life, we need not be afraid of fable. The Biographical Dictionaries likewise, when they condescend to anecdotes, are sufficiently faithful, and if we meet with any account of a Serjeant in books of topography, we can be tolerably assured of their fidelity. But there are two other volumes of stories which claim a higher degree of criticism, and, it may be said, some amount of watchfulness. These are books of anecdotes in general, and again, several which are expressly devoted to lawyers.

In the first group an occasional note respecting a Serjeant will now and then be seen, as it were, *in gurgite vasto*. We must receive such with attention, and, if both original and truthful, even with thankfulness. But the second of the anecdote series which is limited to the lawyers contains a medley, partly reliable, partly doubtful, yet one which we must,

nevertheless, accept, since we might haply reject some communications of value. "*I puer et citius mecum hæc subscribe libello*," may be the maxim of these writers, but we must avoid fastidious discrimination.

It should not be forgotten that many of the little witticisms contained in them have been derived from original sources, so that if there should be a want of correctness, it would, probably, have arisen from a random recollection, or, an inaccurate transmission of a story faithfully related in the first instance. Thus, if we find upon occasion, a glaring improbability, the tale may have been told of the wrong person, and yet it may be a real anecdote.

Hence, when amusing narratives are read with a confidence that they are, on the whole, worthy of credit, their interest is much heightened, and, it is hoped, that such as are scattered through these lives will be found, for the most part, capable of bearing the test of inquiry.

INTRODUCTION.

It is not the plan of the writer upon introducing his lives to the public to dive into the antiquarian research required for so obscure a subject as the origin of the Serjeant-at-Law. That difficult and doubtful inquiry has been almost exhausted by authors of acknowledged merit and ability. Much information has been elicited, but much, which must once have been known, remains in darkness . . . . . Even if the ancient history of the brotherhood were fully disentangled the old learning would be productive of but little advantage. The dignity of the coif, indeed, has been seriously impaired by the abstinence of modern Chancellors from recommending lawyers of eminence to Her Majesty for the higher honours of the order . . . . The present position, therefore, of the Serjeant, the rights still preserved or accorded to him, his present practical usefulness, his constitutional standing, are matters of far more importance than the by-gone records of grand feasts and festival days, of magnificent and costly processions, or the ceremonies once attendant upon the creation of a member of the venerable body.

Such, however, as may be curious respecting the old times, can be gratified by a reference to the old chroniclers, as Hall, Hollinshed, and Stow; to a book called "Origines Juridiciales," by Sir William Dugdale; Horne's "Mirrour of Justices;" Spelman's "Glossary;" Fortescue, "de Laudibus legum Angliæ;" Wynne's "Serjeant-at-Law;" the "History of Hertfordshire," by Sir Henry Chauncy, one of the Serjeants whose memory we have endeavoured to perpetuate; the "Serjeant-at-Law," by James Manning, the late ancient Serjeant.

But our business is with "modern instances." We are not retreating to the Norman Conquest, when it might not be easy to ascertain whether a Serjeant were monk, soldier, or lawyer, nor to the merry days of Charles the Second, when the serjeants, deficient both in courage and policy, were compelled to submit to the rank of a King's Counsel, nor to the era of the Revolution, when the numbers of the King's Counsel rivalled those of the King's Serjeants.

It was far earlier than the reign of George the Third when an officer, known by the name of the King's First or Chief Serjeant, presided over the Bar. He was made by a distinct patent. All the King's Serjeants were made by patent, but he was, emphatically, the King's Serjeant. Many well remember the old Proclamation in our Courts of Justice. "If any one can inform the King's *Serjeant*, the King's Attorney-General," &c. After him came the King's Ancient

or eldest Serjeants, of whom there were two. These had precedence of the Attorney and the Solicitor-General. But, as time went on, the senior was commonly called the Ancient Serjeant, and it was not until the appointment of Serjeant Shepherd to be Solicitor-General that the precedence came to be understood. It was obvious that the Solicitor could not lead the Attorney-General. Yet Shepherd was in that position. An Order in Council was consequently issued, directing that, for the future, the two eldest Serjeants of the Crown should no longer maintain their original rank.[1] Hence Shepherd virtually surrendered his right, and the right of the Bar. Yet as the road to preferment lay more in the way of the Solicitor-General than the King's Serjeant, and as it was palpable that such an Order would ultimately have been sanctioned, it seemed a good occasion to make the change. It followed, that the senior King's Serjeant became the Ancient Serjeant, not by reason of any peculiar claim or title, but by courtesy.

However, just before we sum up the present grades of the coif it may not be amiss to refer for a moment to a patent which gives a certain status of forensic precedence.

Not very many years since, the King's Counsel were gratified with a salary of £40 per annum. The rank, thus salaried, was held to be an office under the

[1] "Law Reports in the Common Pleas," by William Pyle Taunton, vol. vi. p. 424.

Crown. Hence, when a Member of Parliament became a King's Counsel, he vacated his seat. This was, in more senses than one, a manifest inconvenience. A new election is ill relished by the member, and if he were of the party of the Government, the loss of a supporter was hazarded. A remedy suggested itself. By investing the fresh "silk gown" with "a Patent of Precedence," the person on whom it was conferred received no salary, and, consequently, was not an officer of the Crown, and thus retained his seat. And he had this further advantage. He was to take precedence next after the King's Counsel last made, and his leadership at the Bar was thus preserved to him.[1] But how came the *serjeants* to acquire this patent? They had no salary. The King's Serjeants did not want a patent, because their rank was higher. It happened thus, and the subject deserves attention. When a serjeant attained to such success at the Bar as to point him out a fit person to be a leading advocate, his position was anomalous. He could not be a King's Serjeant without passing over all the King's Counsel, an event which, in most cases, would seriously affect his practice. He could hardly remain in his normal condition, because the attorneys cling to the front seats of the profession, and would be apt gradually to neglect a man who did not occupy one of them. On the other hand, if, notwithstanding this,

[1] Four only remain. Matthew Davenport Hill, Right Hon. Sir William G. Hayter, Bart., Charles Austin, James Robert Hope Scott.

the serjeant should retain the abundance of his business, he might stand in the way of future King's Counsel who could not hold briefs with him as his juniors. It was, therefore, determined that the serjeant also should have this "Patent of Precedence." And thus he ranked after the King's Counsel last made. But it may be said, this is quite a modern degree. That is so; and the patent conferred upon the serjeant was much later than that accorded to the King's Counsel. Now, it needs scarcely to be remarked that the two patents stand upon a foundation entirely distinct. The first was of a fiscal character, and affected a member of the Legislature. The other was the fruit of forensic necessity: forced upon the notice of lawyers by the great increase of the King's Counsel. For it would have been hard measure to have withheld the patents granted to the Serjeants Hayes,[1] Ballantine, and Parry.[2] They had earned their status, and their promotion was absolutely right.[3]

Having disposed, then, of the matter of the patent, this part of the introduction may be dismissed with a simple summary of the dignities of the coif, which are now at the disposal of the Crown. 1. The Queen's first or chief Serjeant. 2. The Queen's Serjeants, the two eldest being "propter senioritatem," the ancient or "*ancientest*" Serjeants. 3. The Patent of Precedence. 4. The Serjeant-at-Law.

[1] Now a Judge.

[2] Since this was written Serjeant Simon has obtained a patent.

[3] There have been others, but these are the latest. . . . .

Sir William Dugdale, in his Catalogue of Judges, Serjeants, &c., called the "Chronica Series," gives the date of 1276 as the date of the first Serjeants;[1] 1279, as that of the first Attorney-General;[2] 1321, of the first chief Serjeant, who afterwards was made the first King's Serjeant;[3] and 1462 as the date of the first Solicitor-General.[4] The first special writs from the Crown to compel "grave apprentices" of the law to take this degree, was, according to the same authority, in the sixth year of the reign of Richard II.[5] These "grave apprentices" demurred to the great costs which accompanied the inauguration to the rank. These were considerably in advance of the sum now required for that purpose. The processions, ceremonies, and, above all, the sumptuous feasts, were the sources of these dreaded disbursements. Grafton says in his "Chronicle: "On Saint Peter's even was kept the Serjeauntes' feast at Saint Thomas,[6] with all plentie of vittayle. At which feast were made ten Serjeauntes, three out of Grey's Inn, and three out of Lincoln's Inn, and of every of the Templars two. At which feast were present all the Lords and Commons of the Parliament, beside the Maior and the Aldermen, and a great number of the Commons of the citie of London."[7]

Upon one occasion, Baker says in his "Chronicle,"

[1] P. 27. They came in, *as ecclesiastics*, with William the Conqueror, but this might have been the first regular recognition of them as a body. . . . . .
[2] P. 28. [3] P. 39. [4] P. 67.
P. 110. [6] Of Acre. [7] P. 1251.

that the banquet was prepared in Michaelmas Term at the Bishop of Ely's Palace, in Holborn. This was the celebration of the creation of eight Serjeants-at-Law. But the possession of the post of honour by Lord Grey, of Ruthyn, Lord Treasurer of England, gave such umbrage to the Lord Mayor, that he departed hastily with the Aldermen and Sheriffs, without even tasting the viands, a sacrifice to dignity of civic predilection for dainty fare equally singular and heroic. Baker also tells us, that this magnanimous choice of the Lord Mayor was registered for a precedent. . . . .

Chief Justice Fortescue, who wrote a book in praise of the laws of England,[1] confirms the stories told of these extravagant banquets. He says that "each new Serjeant should hold a feast for seven days, like that at a coronation; that he should spend £260, and that he should give gold (rings,) and liveries of cloth."[2] This sum of £260[3] was not so easily earned in those days, and it therefore counted at a much higher rate than its value would be at present. . . . . .

The robes of the Serjeants may be briefly described. There is the scarlet gown for state occasions; the purple for saints' days and holidays; the silk gown for levées, drawing-rooms and the sittings at Nisi Prius, and (except on saints' days and holidays) a violet gown, to be worn in Court during Term time.[4] . . . . .

[1] "De Laudibus legum Angliæ." [2] P. 114.

[3] Possibly *one-third* more than its present value.

[4] The curious may consult for further information, "Fortescue de Laudibus," c. li. p. 123.

The modern domicile of the Serjeant is of later date than when he was wont to advise his clients at a particular pillar of his own at St. Paul's. Chaucer's poetry is too well known to need any mention. The "Parvise" which he celebrated was the portico before St. Paul's.[1] . . . . . But St. Paul's lay more convenient for consultations after dinner than Westminster, although both places might have been used.

Dugdale gives the initiatory movement of the fresh Serjeants into their *pillars*. They went in a sober manner with their officers and servants into London, on the east side of Cheapside, to St. Thomas of Acre, and there they offered, and then came down to the west side of Cheapside to Paul's, and there they offered at the road of the north door, at St. Erkenwald's shrine. They then went down into the body of the church, and were there appointed to their *pillars* by the Steward and Comptroller of the feast. Then, after these ceremonies, they went back to the feast.[2] The strange part of this history is, that none but *priests* could offer. Nevertheless, the Serjeants secular succeeded the Serjeants ecclesiastical, and, as they doubtless offered in conjunction with the priests, this rite was probably observed until the Reformation It is by no means uncommon in Catholic countries to blend the secular and clerical ceremonials in the same edifice. From the days of Christ downwards, the temples were decorated by worldly exhibitions. . . . . .

[1] Or, according to Sonner, Old Palace Yard, adjoining Westminster Hall.
[2] Dugdale's "Orig.," p. 117.

These pillars soon resolved themselves into "chambers," and good fellowship demanded places of entertainment. . . . . So there arose three Inns (the word is, of itself, convivial) Scroop's Inn, or Serjeant's Place, opposite St. Andrew's Church, Holborn; Serjeant's Inn, Fleet Street; and Serjeant's Inn, Chancery Lane.[1] Scroop's Inn was deserted.[2] The tendency, dominant even now, was westward. About the time of Henry VI. the brotherhood resorted to Fleet Street. Their new Inn was a garden close to Whitefriars.[3] It belonged to the New Temple, and it was granted by Henry III. to the Bishop of Chichester.[4] In 1670 the Fleet Street Inn still flourished. Yet, after the fashion of rats which leave a falling house, the Judges were glad to emigrate as soon as the Inn became dilapidated. . . . . .

The original name of the third Inn (in Chancery Lane,) was "Faryndon Inn." It belonged in the days of Richard II. to the Bishop of Ely. In the 7th year of Henry IV. it was called "Hospitium nuper Faryndon" in Chanceler's Lane. . . . . .

So that, when Fleet Street was deserted, the chapel of that in Chancery Lane might well be called the "Sacristy," and the Hospitium of the "United Brethren." But the order seemed to stand in deadly fear of want of repair. This very Inn of Faryndon

[1] Stow's "Survey," vol. i. p. 756.
[2] *Ibid.*—Dugdale's "Orig.," p. 333.
[3] See "The Fortunes of Nigel."
[4] Maitland's "London," p. 975.

was in this sad case in the early part of Henry the Sixth's reign, upon which it was forthwith abandoned.

"Hospitium in Chanceler's Lane, *stetit inoccupatum per totum annum circa reparationem ejusdem.*"[1] And the "Hospitium was not settled for many years, in consequence of this apparently formidable dry rot." And so strong was the appeal, that the rent was lowered from £5 to £4. At last, Bishop Felton granted all that messuage lately called Grey's Place to Sir Anthony Ashley for three lives, under whom, says Dugdale, the Judges and Serjeants do now hold it.[2] But Manning, in his "Serjeant-at-Law," observes, that this Bishop granted the property to John Marten and others Serjeants-at-Law in 12 Henry VIII.[3] . . . . .

However that may be, in 1733 the union of Serjeants was perfected.

Thus, we have just touched upon the origin of the Serjeant, his pillared chamber at the Cathedral, and his domicile.

We refrain from writing the history of the Serjeants. All that we can do here is briefly to mention how they became reduced from high honour and pre-eminence at the bar to their present scanty numbers, without a first Serjeant or a Queen's Serjeant to represent their ancient dignities.

In the reign of Elizabeth, that resolute Princess made Bacon, whose abilities she admired, her counsel

[1] Dugdale's "Orig.," p. 332. [2] *Id.* p. 333.
[3] P. 182.

extraordinary, with a salary of £40 yearly.[1] He appears to have been appointed for a special occasion, and, when he became Solicitor-General, his duties and rank ceased. Nothing more was heard of the King's Counsel till 1668, when the House of Commons determined upon pressing a writ of error to reverse the conviction of Hollis and others, for holding down the Speaker in his chair in the days of Charles the First. Now the Attorney-General was officially debarred from arguing, and, therefore, he applied to the Serjeants. But their answer was, that they could not venture upon an opposition against the Commons of England. There was one bold man amongst them, Maynard. But he was not likely to lend his forces in opposition to a course in which he was once deeply interested, so that the denial was unanimous. The Attorney-General, nettled at the result, exclaimed, that "his cousin North should do it;"[1] and this historical incident may be noted as the commencement of the ultimate decline of the grand order. North undertook the task, but, though unsuccessful, he was immediately made "of the King's Counsel."[2] He thus became the first of that rank. There seems to have been this important distinction between him and Bacon. North's was a continuing appointment, Bacon's merely temporary. . . . . .

The meaning of "King's Counsel extraordinary,"

[1] Whence the future salaries of the King's Counsel were fixed at £40.

[2] Life of Lord Keeper Guilford, p. 37. [3] *Ibid.*

was this. The King had no counsel excepting Serjeants, so that a counsel, not a Serjeant, was one "extraordinary." . . . . .

From this ill-judged conduct of the Serjeants arose another mischief almost equally fatal to them. They had always pre-audience in Court unless when the Attorney-General or a law officer moved on behalf of the crown.

A Serjeant, in the time of James the First, offered to move before Sir Francis Bacon, Attorney-General. Sir Francis was much incensed, saying, that "he marvelled he would offer this to him." Upon which, Sir Edward Coke, no friend to Bacon, observed: "No Serjeant ought to move before the King's Attorney, *when he moves for the King*, but, for any other motions, "any Serjeant-at-Law is to move before him. And when I was the King's Attorney, I never offered to move before a Serjeant, unless it was for the King."[1]

The Attorney-General has now precedence by order in council, but the *Queens Counsel are not included.*[2]

No alteration has taken place except as to the Attorney and Solicitor-General. There must have been some private understanding between the Bench and the Bar, that the order of precedence should be changed. No order of Court appears to that effect.

The expence of the silk gown of a King's Counsel

[1] Law Reports of Edward Bulstrode, Esq., vol. iii. p. 32. Bulstrode, a near relation of the famous Bulstrode Whitelocke, was one of the best reporters of his day. His writings are at once elegant and excellent.

[2] In private society a Serjeant takes precedence of a Queen's Counsel.

is less than that of the Serjeants; so that, if an application for the former were unsuccessful, the aspirant, in many instances, turned his ideas to the coif, and the hopes of his new effort were to obtain his patent, the lead on his circuit, and it might be the higher name of a Queen's Serjeant. The numerous examples of distinguished lawyers who have risen to the Bench under these difficulties prove the importance of the Serjeant's degree.

The Serjeant differs in many important respects from the King's Counsel. He has to take a very remarkable and ample oath, by which he binds himself to plead for all, however humble their condition.[1] The King's Counsel enter into no such engagement.

Copied from "The Book of Oaths and the several Forms thereof, both ancient and modern, faithfully collected out of sundry authentic Books of Records not heretofore extant."—Printed for H. Twyford and others, 1689 (London).

Page 139.—*The Oath of a Serjeant-at-Law.*

"Ye shall swear, That well and truly ye shall serve the King's People, as one of his Serjeants-at-Law, And ye shall truly counsel them that ye shall be retained with, after your cunning, and ye shall not defer, tract, nor delay their causes willingly for covetousness of mony, or other thing that may turn you to profit, and ye shall give due attendance according. As God you help, and his Saints."—See also the "Law Reports of Lord Chief Justice Dyer" (*temp.* Eliz).

Page 138.—*The Oath of the King's Serjeant-at-Law.*

"Ye shall swear, that ye shall well and truly serve the King and his people, as one of his Serjeants of the Law, and truly counsel the King in his matters, when he shall be called, and duly and truly administer the King's matters, after the course of the Law, after your cunning; ye shall take no wages, nor fee of any man, for any matter where the King is party against the King; ye shall as duly and hastily speed such matters, as any man shall have to do

On the contrary, if it be wished to secure the services of a Queen's Counsel in any case where the Crown is a party, a licence must be applied for and a fee paid. The leave is never refused; but it is quite competent for the authorities to withhold the sanction, and if troublous times should ever arise, the certainty of the licence could not be deemed conclusive. But the serjeant needs no such permission. It is even doubtful, whether, unless he were a Queen's Serjeant, he could be retained by the Crown, at all events, against a prior retainer by a subject. So that he is the most independent advocate known to the British Constitution, and is, perhaps, unequalled in Europe.

If justice be done to the time-honoured rank of the Serjeant, men of note will, as of old, come forward as candidates for the coif and the order will remain inviolate, a bright gem in the constitution of our country, *and of Her Majesty's prerogative.*

A monument

> "Ære perennius,
> Quod non imber edax, non Aquilo impotens
> Possit diruere, aut innumerabilis
> Annorum series, nec fuga temporum."

---

against the King on the Law, as ye may lawfully do, without delay or tarrying the party of his lawful Process, in that that to you belongeth: ye shall be attendant to the King's matters when ye shall be called thereunto. As God help you, and his Saints."

LIVES OF EMINENT SERJEANTS.

SIR JOHN MAYNARD, Kn^t.

Serjeant-at-Law, Feb. 4, 1653—Lord Protector's Serjeant, May 1, 1658—Prime Serjeant to Lord Protector Richard, ... 1658, 1659 . . . .—Serjeant, May, 1660, and King's Serjeant, Nov. 9, 1660, and 1684—Lord Commissioner of the Great Seal, 1688.

IMMEDIATELY after the Revolution it became necessary to make great changes "on the Bench and at the Bar." Sir John Maynard, one of King James's Serjeants, was at once advanced to the dignity of Chief Commissioner of the Great Seal. The general rule of this work is only to speak of those serjeants who have not been Judges of the Courts at Westminster. Yet some, though but few, exceptions may be allowed. . . . . To be inflexible in this arrangement, would be to exclude one of the most eminent serjeants, both as a pleader and a politician, that our country has produced. And a strong plea for relating the history of this considerable man, is, that he was on the brink of ninety when he was entrusted with his high judicial function. Hence, in referring to his career, we find him the powerful advocate and profound lawyer of more than half a century. He was known in the reign of Charles I.; he passed through the shifting

years of the Commonwealth with success and honour; he was in good favour at the Restoration, and was looked up to by the Judges and the Bar throughout the reign of the Second Charles. When James ascended the throne, the Serjeant was unmolested, and as soon as the Great Seal was surrendered, probably by John, Lord Jeffreys, the son of the deceased Chancellor, he was selected as the Chief Custodier. But,

"In commoda peccem,
Si longo sermone morer."

Sir John Maynard[1] was born at Tavistock, in 1602, in a mansion held on lease from the Earls of Bedford,[2] in the midst of "a constellation of pleaders." He and Serjeant Glanville, according to Fuller, were the "biggest stars," and as to Maynard, "the Bench seemed sick with long longing for his sitting thereon."[3] He was the eldest son of Alexander Maynard, Esq., of Tavistock, and, probably, of a different family from the Maynards of Kent, mentioned by Hasted.[4] There were about that time other John Maynards, one an eminent Puritan divine, who flourished in the time of the great lawyer, and died in 1687; and a second, author of *Twelve Wonders of the World, set and composed for the Viol de Gambo*, "a most admired Lutenist

[1] According to Lower, "An ancient personal name."—*Patronymia Britannica*, p. 221. His mother, called the old lady Maynard, had interest enough with the Earl of Bedford to obtain for Mr. Hughes the living of Tavistock.—Wood's "Athenæ," by Bliss, vol. iii. p. 778, n. 4.

[2] Lyson's "Magn.-Brit. vol. vi. part ii. 475.

[3] Worthies, p. 257.

[4] Hasted's "Kent," vol. ii. 317.

at the famous school of St. Julian's, in Hertfordshire."[1] The subject of this memoir was sent to Exeter College[2] in 1618 . . . . being then sixteen. He took his degree, but did not complete it, by "Determination in School Street,"[3] being desirous of becoming a Law Student,[4] and he was, accordingly, admitted at the Middle Temple.

We have no particular account of his work at the University, but, before he became Sir John, he showed a kindly recollection of his college; for in 1637, before he was thirty-six, he settled £40 a year upon it; £20 for maintaining a Divinity Lecture, and £12 for a Lecture "of" the Oriental Languages, and the rest for an increase of the Fellowships. "The former continueth, but the £12 not."[5] On account of these Divinity Lectures, so founded by him, he was introduced in the Oxford Almanacks of 1739, amongst the portraits, as leaning on a book entitled, *Præl. in Vet. et Nov. Test.*[6] There is, however, an excellent picture of him in *Lyson's Environs of London.*[7] It

[1] Wood's "Athenæ," vol. ii. 335. There was even a third *Sir* John Maynard, about whom Wood does not seem quite clear.—*Id.* 651. But he was the son of Sir John Maynard, K.B., so that all three are accounted for.

[2] Mr. Foss must have made a mistake when he says in his "Lives," vol. vii. p. 26, that Wood in his "Fasti" makes him to have been entered at Queen's. . . . . The "Fasti" has for its first date 1645, whereas Maynard was a student in 1618. Besides, there was a John Maynard, an eminent and judicious divine, who was a Commoner of Queen's in 1616. He was, probably, the person meant.—Wood's "Athenæ," vol. ii. p. 335.

[3] The phrase, "Determining Bachelors," is well known.

[4] Wood's "Athenæ," vol. ii. p. 649.

[5] Antony Wood's "Colleges and Halls of Oxford, by Gutch, vol. iii. p. 107.

[6] "Gentleman's Magazine," vol. lxii. p. 998.

[7] *Id.* vol. ii. p. 235.

was taken from an original miniature by Hoskyns, in Lord Orford's Collection, at Strawberry Hill.[1] . . . .

In 1647, 23 Charles I., it was "thought convenient by the 'blessed Parliament,' or 'beloved Saints,' to have a visitation of Oxford University," and an ordinance was accordingly made.[2] But we should not have introduced this subject here had it not been that the name of Sir John Maynard is so frequently mentioned in the history of those times, as to create a confusion between the Serjeant and others who bore the title of Sir John. For example, amongst the standing Committee of Lords and Commons to carry out this measure, we find the name of Sir John Maynard.[3] Again, no matter in the history of the struggle between the King, the Parliament, and the Army, is better known than the charge from the army against eleven members of the House of Commons, that they had obstructed the business of Ireland, that they had acted against the army—against the laws and liberties of the subject, and that they were obstructors of justice.[4] This charge was delivered to the House, June 16, 1647. Bulstrode Whitelocke had a narrow escape: "Some of the officers told me that I was named, but *not agreed to be one.*"[5] This critical period

[1] "Granger," by Noble, vol. i. p. 172. Although the old editions of Granger do not speak much of him, that of Noble gives some account, and rather of an original character, of him.

[2] *Antony Wood's* "Colleges," &c., vol. ii. p. 501.

[3] *Id.* p. 504.

[4] Whitelocke's "Memorials," p. 253, new edition. "Parliamentary History," vol. iii. p. 664 at length.

[5] Whitelocke, *ut supra.*

approached closely the nadir of the Parliament and the zenith of the army. It is to be remarked, that this was none else than an impeachment of high treason. However, the difficulty was evaded. . . . . For, on the 20th of July, leave of absence was granted to these members for six months. To as many as desired to go beyond the seas, the Speaker[1] was to give passes.[2] Several availed themselves of this liberty; some went into the country,[3] and, probably, Sir John Maynard amongst them. Now, it is true that the great lawyer was sitting for Totnes, his native place, at this very time, but, equally so, that Sir John Maynard, K.B., was one of the members for Lostwithiel.[4] And it is most improbable that a person of the Serjeant's great caution should have thus far committed himself in concerns foreign to his vocation. Besides, he was not Sir John till the reign of

[1] William Lenthal.

[2] "Parliamentary History," vol. iii. p. 711.

[3] Whitelocke's "Memorials," p. 256.

[4] Willis's "Not. Parl." vol. iii. pp. 242, 243. In Tooting Churchyard are the tombs of Sir John Maynard, K.B., who died in 1658, and of his son Sir John Maynard, Knight, who died in 1664. Lyson's "Environs of London," vol. i. p. 499. . . . .

Whilst writing the above, the Author took up the Life of Maynard, in Foss's "Judges," and found, vol. vii. p. 327, that Mr. Foss had detected the error. He refers to Lord Campbell's "Chancellors," vol. iv. p. 12, and to Townshend's "History of the House of Commons," p. 345, as containing the same mistake. The name *of Sir John*, mentioned upon this occasion in *books of authority*, when the Serjeant had, as yet, no title, was alone sufficient to excite suspicion.

It may be added, that the same error occurs in Noble's "Granger," vol. i. p. 172, where he speaks of sending Glynn and Maynard to the Tower, for opposing the victorious army, whereas, they were merely disabled from sitting in Parliament, and became voluntary exiles. . . . . Burke's "Peerage" is right.

Charles II. In the year following, 1648, he took part in the debate upon the Remonstrance of the Army, but was not a partisan on either side. . . . . There are two more weighty reasons, to prevent him from being confounded with the exiles of 1847. . . . . The other Sir John was one of the standing Committee to carry out the Visitation of Oxford University. Whereas, to say nothing of the devoted attachment of the Serjeant to that Institution, we have to cite the authority of Wood, an actual enemy of Maynard. The author of the *Athenæ* said, that however obnoxious Sir John might have rendered himself on other accounts, yet, out of "the"[1] sense of public gratitude, he felt obliged to speak of his vigorous espousal of the interest and cause of his "mother." And this "*contrary to what others of his profession, on whom she hath laid equal engagements, have too commonly done*, by alwaies refusing to be entertained by any against her." And once more, in litigious matters concerning the University, he was commonly applied to for his advice and assistance, and "he did most readily yield both, by acting his best on her behalf."[2] The other reason is, that he was in good business during this rout of the eleven members. And Wood says, that "these Maynards have been taken for each other in history."[3]

Maynard was called to the Bar by the Society of the Middle Temple, and soon became a favourite of

[1] (*Sic*).

[2] "Athenæ," vol. ii. p. 650.

[3] *Id.* p. 651. See also vol. iii. "Parliamentary History," pp. 838, 844, 955; Rushworth's "Collections," part 4, vol. ii.; "Maynard," *in loco*.

William Noy, the celebrated Attorney-General, famous for his flow of language,[1] who was glad to avail himself of his counsel.[2] Selden and Rolle, and others of high promise, associated with him. Their "custom was to converse very unreservedly together, and thus cement their various stocks of knowledge."[3] He adopted the Western Circuit, and it was not long before he got into good business; and we find North relating a curious incident concerning his early progress . . . . "I heard him say," said he, "in the Court of Chancery, of a cause then at hearing, that he was a counsel in that cause in the year 1643."[4] The same writer avers that he travelled the Circuit more than once on foot for pleasure,[5] but, as the country attorneys attributed the adventure to poverty (which all men hate), he thought it best to discontinue the practice.[6] North, however, brings him forward as a plaintiff many years afterwards under very peculiar circumstances, and gives the particulars of his narrative with such full details as to leave no doubt but that the story is substantially correct. Still, the account is highly coloured, and no occasion is lost to place Maynard's conduct in

[1] "Noy's Flood is Gone." See Polwhele's "Cornwall," vol. v. p. 140.

[2] Wood's "Athenæ," vol. ii. p. 649.

[3] Woolrych's "Jeffreys," p. 99 n.

[4] North's "Lord Guilford," p. 115. "His name is in Crook's Reports, 3 Car." But there is only the name of Maynard as a *plaintiff*—not a counsel,—vol. iii. p. 86.

[5] "Discourse on the Study of the Laws," by the Honourable Roger North, p. 39.

[6] Jeafferson's "Lawyers," vol. i. p. 131.

the worst light. The plain facts were, that he brought an action in the Common Pleas for scandalous words spoken of him in the profession, and at a time when he was a candidate for a western borough, or, at all events, when the election for that borough was imminent. Chief Justice North was the Judge. Roger North says, that he chose Middlesex for the place of trial, by virtue of his privilege as a Serjeant.[1] Next, he charged the words in *Latin*, it being more easy of proof than the strict evidence required had they been expressed in English . . . . The case against the unfortunate defendant was, that a client came to the Serjeant, and gave him a basket of pippins, and every pippin had a piece of gold in it. Judges loved a jest in those days, as some do in our time. Those who are capable of such a source of merriment (for judicial wit is sure of meeting applause), probably feel a momentary relief from the weariness of their dull sittings. . . . . "Those were golden pippins," exclaimed the Chief Justice . . . . The Serjeant roiled a little. And then, continued the witness, the other side came, according to the defendant, and gave him a roasting-pig (as it is called in the West), and, in the belly of that, there were fifty broad pieces . . . . The Judge was in high humour, and, for him, quite joyous. "That's good sauce for a pig!" he remarked. The Serjeant was now quite "put out." He turned to those about him,

[1] Who is presumed to be in constant attendance at his Court.

and said: "This is on purpose to make me ridiculous." Nevertheless, the matter was proved, and the Judge directed a verdict for the Serjeant . . . . But it was made a question amongst the lawyers whether this slander was not mere talk over a pot of ale, without any evil intent? And of this opinion was the full Court . . . . North, who was ever ready to say an ill word against Maynard, exults at the issue in an epigram. "Such bitterness flows from the sower spirits of old pretended republicans."[1] . . . . His conclusion was, that the defendant had voted against the plaintiff's interest in a western borough, so that the great lawyer was resolved to punish him. To continue, for a moment, North's antipathy . . . . "He" (Maynard) "had the cunning to temporise at the Restoration, although not friendly to it, and got to be made the King's eldest serjeant, but advanced no further."[2] Whence Roger would have had the world conclude, that his promotion was stopped. On the contrary, a judgeship was placed at his option, as we shall see by-and-by.

His early and strong inclinations were enlisted on the side of what are well understood at this day by the name of Liberal Politics. And it is evident that he was well held in his own county, for in the year 1640 he was returned for Totnes.[3] Nevertheless, accord-

[1] "Life of the Lord Keeper," p. 114.
[2] *Id.* p. 115.
[3] Willis's "Not. Parl.," vol. iii. p. 243.

ing to Willis, he had sat in the year before for Newport, in Cornwall, which he left for the Devonshire borough nearly at the same time.[1]

In 1640[2] his constituency returned him again.[3] But, in 1656, being then a serjeant, he was selected for Plymouth.[4] In the Parliament of 1658—1659 we find him at Camelford, and Berealston, and Newton, in Hampshire, for which last place he elected to sit.[5] In 1653 the Little Parliament, no burgesses of cities or boroughs, except London,[6] were summoned, and in 1654 he was not returned for any place.[7]

Some would, possibly, analyze the political life of Maynard, and divide it into four parts. One anti-monarchical, when, in common with his faction, he resisted the despotism of Charles; the second, Republican, when he was content to serve under Cromwell; a third, obedience to the restored Stuarts, with whom, if not in high favour, he lived without molestation, and in the full enjoyment of a lucrative profession; and the last, a kind of triumphant greeting of the Revolution, when he was received with an ovation by William, and entrusted with the Great Seal. But in regarding his career with freedom from bias, it may

[1] In the Short Parliament. *Id.* vol. iii. p. 231.

[2] The Long Parliament. [3] Willis, vol. iii. p. 243.

[4] Willis, vol. iii. p. 273. And Christopher Maynard, merchant, succeeded him at Totnes. *Ibid.*

[5] *Id.* vol. iii. p. 292. [6] *Id.* vol. iii. p. 255.

[7] *Id.* vol. iii. pp. 259—272. His seats after the Restoration will be duly mentioned.

be said, that his policy was simply uniform. He had no fixed hatred to royalty; he was neither devoted to a commonwealth nor to a kingly protectorate; he was prepared to partake the fortunes of Charles II., and accept the honours; and, although the oldest of lawyers, he was happy enough to declare that he had not survived the law itself . . . . Yet he was no time-server. A time-server avails himself of every shift of fortune, and without presage of the future, sells himself to every cast of the die. He may be fortunate, yet he is often the prey of hopeless adversity . . . . But a politician who yields to the inevitable course of events, and has the wisdom to foresee it, and make himself useful in his generation, is no time-server. Such a foresight is the principal gem in a life of hazardous variety. Many fawning slaves there were in his day; many such went to ruin; some arrived at dignity and rank, whose behaviour could scarcely be distinguished from the worst; whilst a few, very few, who could see no farther than the rugged path of honesty, became, amidst difficulties, the ornaments of the English Bench. Yet, as we shall have occasion to relate, Maynard did not attain his striking sagacity without strokes of experience, sometimes of a formidable character . . . . To account for his espousal of liberal doctrines is by no means difficult. The young men of the period had inherited the feeling of their fathers, and many Parliament leaders were still alive who had taken part in the struggle between James I.,

Charles, and the Commons. James was pacific, and of an easy, good-tempered habit; but there always lurked in him a jealousy to maintain his prerogative, so that, some time before his death, he quarrelled with his Parliament, and intimated that they held their seats upon sufferance. "Fetch twelve chairs for the twelve kings," said the monarch, when a deputation was ordered to wait upon him with a protestation. The Tower was a favourite place for these "malignants," so that the heart-burnings that were afterwards to be the cause of such great mischiefs were certainly rankling under his dominion.

There were, indeed, many discontented spirits in the days of Elizabeth, but they quailed before that arbitrary and able Princess. . . . . The somnolency of James was his security, but his son came to the Crown with every element, every principle of unpopularity. In private life he was, no doubt, honourable, and to his family affectionate, but he could not be disenthralled from the notion of the Divine right of kings. This deluded him into the fatal belief that he could assume a dominion over his Parliament, that he could impose taxes upon his people without the consent of their representatives, and that he could carry out, by standing sternly to his purpose, the domestic tyranny which his father had begun.[1] The distinction between them was that James was full of

[1] Rapin, vol. ii. pp. 186, 212.

terrors and nearly imbecile, and would, in the end, have been conquered. Charles was fearless and inflexible, and in matters touching his sovereignty and prerogative, by no means worthy of implicit faith. . . . . Hence, he did not renew his father's exaction of benevolence, but, relying on his independence of the Commons, levied tonnage and poundage without their concurrence, and dissolved their sittings with an acrimony which led, at no long distance of time, to the formidable *Long Parliament*. . . . .

It is always a matter of interest to be able to record the first essay of a great man. In the Commons' House, this is called, "The Maiden Speech." The new Member easily wins the Speaker's eye, and he is almost always heard with encouraging attention. But Lord Campbell can hardly be right when he says:[1] that this early trumpet's voice was heard in the first Parliament of Charles, 1625. . . . . There were other Maynards at that time who made no inconsiderable figure in politics. Maynard, the Serjeant, was of Devonshire. The supposed speech was in opening the debate upon a supply demanded under the pretence of an impending Spanish war. This truly was in 1625,[2] but Maynard was only twenty-three at this date, and he never sat for any place out of his own county. . . . . The speaker alluded to was, probably, John Maynard, who sat for Chippenham in

[1] "Lives of the Chancellors," vol. iv. p. 5.

[2] "Parliamentary History," vol. ii. p. 32.

21 Jac. I. and 1 Car. I.[1] . . . . Lord Campbell borrowed his mistake from Cobbett's "Parliamentary History."[2] Notwithstanding this, the lawyer who sat for Totnes in 1640, was probably the Chairman of the Grand Committee for privileges and elections in that year.[3] Of the stirring incidents of the times, Maynard was not an unconcerned spectator. He was gradually getting into good business at a very early age, and was evidently pointed out as an important personage, to destroy such obnoxious favourites of the monarch as Strafford and Laud. And yet he was at this very juncture capable of great honesty and impartiality, although the temptation of politics presented a serious opposition. . . . . In 1641, the corporation of Salisbury seems to have been of the Puritan faction, and as they did not love the "Book of Sports," they were glad of an opportunity to "sweep away" the maypoles, which, either by the order of Government, or upon the authority of that book, were set up in every parish. They insisted that May-day frolics were derived from the heathen, who devoted the four last days of April and the first of May to the goddess Flora, the deity of fruits and flowers. But they must have a practical illustration of their dislike. So they conjured up the postures of naked women,

[1] Willis, pp. 196, 205.

[2] Vol. ii. p. 32. Mr. Foss seems to have fallen into the same error.—*Lives of the Judges*, vol. vii. p. 326.

[3] Rushworth's "Collections," part 3, vol. i. p. 19.

called together with the noise of trumpets, and in the attitude of dancing before the spectators. Of course no imputations of lewdness and debauchery were wanting, especially in the night of the first of May.[1] Nevertheless, in spite of this religious fervour, a Royalist was elected for Salisbury in the Parliament of 15 Car. I. (1641,) Sir Robert Hyde, Recorder of the city.[2] With him was associated Michael Oldsworth, said to be a "supple creature of Philip, Earl of Pembroke."[3] Hyde was the second son of Sir Lawrence, and first cousin of the great Lord Clarendon. His father became Attorney-General to Queen Anne, consort of James I., and died in 1641. The Recorder was nephew of Sir Nicholas Hyde, Chief Justice of the King's Bench in 1626.[4] . . . . Salisbury has ever been a loyal and honourable city, so that there was strength enough to neutralise the Puritan's vote. But the party of the movement could not brook this "sore grievance," for Hyde was a "zealous Royalist and Churchman." A petition was therefore placed in the hands of the Commons. . . . . It was not upon a technical matter, but it complained of the member's disqualifications and demerits. According to this document, he was an enemy to the education of the poor,

[1] Hoare's "Modern Wiltshire—Salisbury," p. 390, note, citing Bourne's *Antiquitates Vulgares*, by Brande, p. 257.

[2] Afterwards Chief Justice of the King's Bench after the Restoration.

[3] Hoare's "Sarum," p. 390. Wilton House is three miles from Salisbury. The famous cedars are there.

[4] *Temp.* Car. I. Foss's "Judges," vol. vii. p. 134.

he objected to the frequent preaching of God's Word, he oppressed his opponents at the election, he was violent for ship-money, and when remonstrances were made against that impost, he denied justice to the complainants. And he had advised the Mayor to surrender as much of the charter as conferred the Commission of the Peace upon the members of the Corporation, for the purpose of introducing the clergy into the magistracy of the city. Charges like these would have staggered, and probably much swayed, the opinions of the adversaries to the return in much later days. The petition was at once referred to the Committee of Privileges, and thirty-two members heard the cause. They were equally divided. Amongst those who desired to quash the return, were Sir John Colepeper, Sir Walter Erle, Sir Arthur Haselrigg, Hollis, and Fiennes. But there was weight on the other side, and Maynard's name was considered the most important when the numbers came to be reckoned. He brought up the report, upon which on the 3rd of March, 1641, the election of Sir Robert was confirmed by 216 votes against 130.[1] A careful examination of this case, and of others, where impartiality equally appears, will give us the key to the character of this extraordinary man, who at the

[1] Hoare's "Modern Wiltshire—Salisbury," p. 391. But the Puritans ultimately prevailed. They contrived that Hyde should be sent to the Tower, incapacitated from sitting in the House, and deprived of his office.—*Id.* 393. It must be remembered that Maynard was an early friend of Sir Robert's first cousin, the great Earl of Clarendon.—*Life of Clarendon*, vol. i. p. 62.

same time when he vigorously maintained his positions, legal and political, as soon as he believed that the allegations against the accused person were not well founded, would not be turned aside by the bitter animosity of a faction. Very different, though marked by the same uprightness, were his feelings and conduct towards the Earl of Strafford, whose fate was now resolved upon by the powers in the ascendant. . . . . But before entering upon this eventful tragedy, we cannot too strongly remark that Maynard had no hand in the king's death. He had adopted the opinion that Charles had far exceeded his just prerogative, he had read of the Gavestons, and the Empsons, and of other such favourites, and his conclusion was, that the men who were chiefly in favour with the Sovereign ought to suffer condign, and, as it were, a vicarious punishment, for the misdeeds of royalty.

In March, 1640, the name of Maynard appears with many others[1] as an accuser of the Earl of Strafford. The majority of these accusers were able lawyers, and were called Managers of the Impeachment . . . . On the 1st of April, Mr. Maynard had entrusted to him the article concerning flax in Ireland. Flax was the native and principal commodity of that kingdom. The Lord-Lieutenant was charged with restraining the sale of it. The Irish could not make the flax into

[1] Pym, Hampden, Hollis, Lord Digby, Stroud, Sir Walter Earle, Selden, St. John, Palmer, Glynn, Whitelocke.—"Whitelocke," vol. i. 39; Nalson's "Collections," vol. i. p. 37; Evelyn's "Diary," vol. i. p. 328.

yarn. Such a manufacture was unknown in that country, and "impossible." Nevertheless, the production of such yarn by so many lengths, and such a number of threads, was ordained . . . . Disobedience on the part of the Irish being "pretended" against them, the Lieutenant seized all the flax and yarn to his own use, "whereby a great many families were reduced to such penury that they died by great numbers in the fields for want of food." The charge, although not individually implying treason, "did make very much for the accumulation of treason." . . . . No doubt Maynard made a strong attack upon the Earl in support of this article, but as there was not much regularity in these hostile proceedings, the article was not further proceeded with, and a fresh one was brought forward, in which Glynn interfered, "for all of them spake as occasion served."[1] Yet, although Maynard only opened one article, he was not the less urgent and eager to destroy the Lieutenant. He was pledged to a party, and of such importance did his confederates deem a conviction, that on the day when the King passed the act of attainder, he said, with great joy to Sir John Bramston, "Now we have done our work; if we could not have effected this, we could have done nothing."[2] He must have exhibited

[1] "State Trials," vol. iii. p. 1434.

[2] "Autobiography of Sir John Bramston, K.B., of Kerzzs, in the hundred of Chelmsford." In the possession of Thomas William Bramston, Esq., M.P. for South Essex.—*The Camden Society Papers*, London, 1845, p. 75.

a rancour consistent enough with his youthful zeal, but the reverse of that prudence which distinguished his mature days . . . .

Lord Strafford understood well, as a cavalier, the mode of his treatment . . . . Speaking to a private friend: "Glynn and Maynard used me like advocates, but Palmer and Whitelocke used me like gentlemen, and yet left out nothing material to be urged against me."[1]

A curious incident happened upon the discussion of one of the articles. It fell to the lot of Sir Walter Earle, one of the managers. But he "broke down," and Lord Digby was obliged to "handsomely bring him off from the ground." The Queen was present at the trial, and inquired who that knight was whom the Lord Digby relieved? and, being told his name was Sir Walter Earle, she said, that "Water-dog did bark, but not bite; but the rest did bite close."[2]

One of these, it is to be feared, was Maynard. He and Glynn strove sorely together.

> "Did not the learned Glynne and Maynard
> To make good subjects strain hard?
> Was not the King by proclamation
> Declar'd a rebel o'er all the nation."[3]

They were truly of the "tribe of forty-one," which

[1] Whitelocke's "Memorials," vol. i. p. 43. [2] *Id.* vol. i. p. 43.

[3] "Hudibras," ed., London, 1674, 8vo., canto. ii. "These verses were not allowed to stand in the first edition, 1663, because Glynne and Maynard were then living." Glynn died in 1666.

drew up and forced upon the King the famous remonstrance . . . . The Serjeant, at the trial of Elizabeth Cellier, was whispering something, not very pleasing, to Gadbury, a witness, when the man said: "Mr. Serjeant! I was none of the tribe of forty-one."[1] Nevertheless, speaking of Glynn for a moment, there is a story, vouched to be authentic, which reflects much credit on him. Glynn was a Westminster boy, and, formerly, a curtain was drawn across the school, dividing the upper from the lower forms. One day a a boy unluckily tore it, and Busby's severity was as well known as it was imminent. A generous schoolfellow took the blame on himself, delivered his friend from his terrors, and bore the flogging . . . . The boys became men, and the civil wars ensued. Each took different sides. Glynn, the culprit, who tore the curtain, was on the Commission to try the prisoners taken in Penruddock's rebellion in 1654. Some were condemned to die, and, amongst those, "Glynn saw one face which struck him as familiar. He found, upon inquiry, that it was no other than that of his old school-fellow, William Wake," who had taken the flogging. "He said nothing at the moment, but took horse, and went straight to the Lord Protector, and obtained his friend's life as a personal favour."[2]

[1] Woolrych's "Life of Jeffreys," p. 73 n.

[2] "The Public Schools," by the author of "Etoniana," p. 108. A story, with different incidents, is told of Robespierre's generous remembrance of kindness.

About this time Maynard and Whitelocke were sent for very late in the evening to Essex House, where the Lord General lived. They could not form any judgment for what purpose they were required . . . It was simply thus:—The Lord General had summoned to the council several Commissioners from Scotland, as well as his own friends, to devise means for getting rid of Cromwell, who was becoming formidable to Essex, and the Commissioners were willing to come, because they interpreted some words which Cromwell had spoken as derogatory to the honour of their nation. Now the Lord Chancellor of Scotland, being of the Commission, explained the matter thus:—"Master Maynard and Master Whitelocke, ye ken vary weele the accord 'twixt the twa kingdoms, and the union by the solemn league and covenant, and if any be an incendiary between the twa nations, how he is to be proceeded against."

The Lord Chancellor then invited the opinions of the lawyers as to the meaning of "incendiary," and whether Cromwell's conduct had not brought him within that term, "and whilk way wud be best to tak to proceed against him, if he be proved to be sike an incendiary, and that will clepe his wings from soaring to the prejudice of our cause."

The great lawyers, who had not been previously advised of the points referred to them, were yet very prompt in their answers. Their experience in the House as to Cromwell had been appealed to, and they

at once acknowledged his power in that assembly, and the danger of meddling with him. But the main argument was, the total absence of proof at that time of such facts as would prove the Lieutenant to be an incendiary. Whitelocke declared, that he could not advise any such accusation unless some particulars or particular passages could be produced in support of it. And Maynard counselled that the Lord General and the Commissioners should not appear in the matter till "clear proof" should be found which would satisfy the word "Incendiary." Upon which Hollis and Sir William Stapleton mentioned some of the "particular passages;" and they denied that Cromwell's interest in the House was so much as was supposed, and would have brought on the accusation. But the cautious Commissioners were persuaded by the equally wary advocates, and all at length agreed upon the necessity of the proofs; and about two o'clock in the morning, "with thanks and compliments, Mr. Maynard and I," says Whitelocke, "were dismissed."

According to the latter, some false brethren were there, for Cromwell, though he took little notice at the time, seemed more kind to these lawyers than he had been, whilst, notwithstanding, he carried on his plans of aggrandisement with greater activity.[1]

Lord Campbell observes, that although Maynard was a Presbyterian, he never came to open war with

[1] "Memorials," vol. i. p. 116.

the Independents, and he was never expelled the House of Commons.[1] And, subsequently, he resisted the measures introduced by Clarendon, by which faith was broken with the Presbyterians.[2]

However, notwithstanding his strictness, Sir William Davenant managed to gain his sanction to the performance of the Italian Opera in Rutland House, Charterhouse Yard.[3] The Presbyterians esteemed tragedies and comedies very scandalous; but Davenant, notwithstanding the success of the Covenanters, or rather Presbyterians, in silencing players, contrived a way for this opera. It was performed by declamations and music. "And that decency and seemliness should take precedence of rudeness and profaneness," "John Maynard, Serjeant-at-Law, and several sufficient citizens, were engagers."[4]

He, nevertheless, carried his religion into social life. He dreaded the increase of the metropolis. The town extended to St. Giles's. Maynard was alarmed. He was warm for a bill, "to prevent further building in London or the neighbourhood." It was rejected. But he was pathetic in his opposition. "This building," he exclaimed, "is the ruin of the gentry, and the ruin of religion, leaving so many people without churches to go to. This enlarging of London makes it filled with lacqueys and pages. In

[1] "Chancellors," vol. iv. p. 12.
[2] *Id.* vol. iv. p. 17.
[3] It was opened May 23, 1656.
[4] Wood's "Athenæ," by Bliss, vol. iii. p. 805.

St. Giles's parish scarce the fifth part can come to church, and we shall have no religion at last."[1]

In the beginning of 1641, Viscount Kimbolton, Denzil Hollis, Sir Arthur Haslerigg, John Pym, John Hampden, and William Strode were charged with high treason, and high misdemeanours. The charge was made by the Attorney-General, by order of the king, who was sufficiently wilful and ill-advised, first to send the Serjeant-at-Arms to the Commons to arrest the members charged, and next, actually to enter the House and take the Speaker's chair.[2] "By your leave, Mr. Speaker, I must borrow your chair a little." Timely warning having, however, been given, the five members of the House were ordered to depart forthwith, and the last was thrust out, against his will, just as the king was entering New Palace Yard. When the monarch arrived he made a speech, as unwise as his action in the matter, and commanded that, as soon as the members arrived, they should be sent to him. He then asked the Speaker whether any of them were in the House, whether he saw any of them, and where they were. The Speaker, falling on his knee:—"May it please your Majesty, I have neither eyes to see nor tongue to speak in this place, but as the House is pleased to direct me, whose servant I am here; and humbly beg your Majesty's

[1] Campbell's "Chancellors," vol. iv. p. 39.
[2] "Parliamentary History," vol. ii. p. 1009.

pardon, that I cannot give any other answer than this to what your Majesty is pleased to demand of me."[1] The House was now in great disorder, and the king, having concluded, retired amidst loud cries of "Privilege! Privilege!" and the House adjourned. On the next day, Pym, Haslerigg, and Strode vindicated themselves in the House, and Mr. Grimston, Mr. Glynn, and Mr. Maynard[2] spoke strongly in favour of declaring this conduct of Charles to be a great breach of privilege. Maynard said in the course of a long speech: "That which I shall only speak of, is the breach of this grand privilege of Parliament, as I conceive, by accusing of high treason those six[3] worthy members of the same, during the continuance thereof, for matters debated on, and done in the same, as members thereof; and, upon this accusation, to break open their chambers, trunks, and studios,—and seizing on their books and writings."[4] The House then declared the proceeding a breach of privilege, and reduced their resolutions into a declaration.[5]

In 1642 there was a considerable discussion concerning the ordinance of Parliament, which enabled Lords Lieutenants of counties to appoint Deputy Lieutenants. But several precedents being cited in its favour, it was acted upon, and, amongst others, May-

[1] "Parliamentary History," vol. ii. p. 1010. See also the note at p. 1011.
[2] Member for Totnes.
[3] Including Lord Kimbolton.
[4] "Parliamentary History," vol. ii. pp. 1020—1027.
[5] *Ibid.*

nard, Glynn, Grimston, St. John, and Selden accepted their commissions:[1] whereas Palmer, Hyde, and Bridgman left the House upon the passing of the bill.[2]

In 1643 Maynard sat in the assembly of lay divines. This synod came in the place of the regular Convocation, whose members had absented themselves, and they derived their authority from an ordinance of the Lords and Commons. Their duties were to settle the Government and Liturgy of the Church of England, and to vindicate the doctrine of the Church from false aspersions and interpretations.[3] According to Whitelocke,[4] Selden confounded this motley assembly with his profound learning. However, their great object in this year, was to urge the taking of the Solemn League and Covenant amongst the people. This was mere religious fanaticism. It originated in Scotland, and Maynard, who was a Presbyterian, naturally enough subscribed it.[5]

In 1645 we find him again in the field, in the cause of liberty. For, upon a debate concerning the discharge of a wardship, the origin of wardships and the misapplication of the intention of wardships, and the oppression created by them, were discussed. . . . . Selden, St. John, Whitelocke, and himself,

[1] Whitelocke's "Memorials," vol. i. p. 59.

[2] *Id.* p. 60.

[3] Kennet's "History of England," vol. iii. p. 148; Noble's "Granger," vol. i. p. 172.

[4] "Memorials," vol. i. p. 71.

[5] It was formally abolished in 1664.

opened the subject fully to the House. Upon this, the Court of Wards, and all wardships, tenures, &c., were abolished, and the lords concurred.[1]

When Strafford went to execution, he stopped under Laud's windows in the Tower, and begged his prayers, to aid him in the awful moments which were approaching. The Archbishop had been his intimate friend, and, dissolving in tears, "pronounced, with a broken voice, a tender blessing on his departing friend." He then swooned, and fell into the arms of his attendant.[2] Yet, although impeached in the same year with Strafford, he lingered in prison for four years longer, till, after the Treaty of Uxbridge, the Commons found themselves strong enough to pass an ordinance for his execution, the ordinary means for proving the charge having so far failed as to preclude all hope of a judicial sentence.[3] In these proceedings against Laud, it must not be supposed that Maynard was idle. In 1641 he was amongst the managers ordered to expedite the charge against the Archbishop.[4] . . . . He was still a devoted adherent to his party,

[1] Whitelocke's "Memorials," vol. i. p. 194.

[2] Nalson's "Collections," vol. ii. p. 198; "Hume," vol. vi. p. 417. Another account is, that he swooned, and only lift up his hands, upon which the Earl said: "Farewell, my lord, God protect your innocency."—*Kennet*, vol. iii. p. 117. The first is the most probable. All accounts agree in the main facts. "Sir," said Strafford to the Lieutenant of the Tower, "Though I do not see the Archbishop, give me leave, I pray you to do my last observance towards his rooms." But the Archbishop, being advertised of his coming, immediately came to the window.—*Nalson*, vol. ii. p. 198.

[3] "Hume," vol. vii. p. 39.

[4] "Nalson," vol. ii. p. 265.

he continued to hold the principle of punishing the king's friends and favourites for their bad advice, and, in common with the rising spirits of the age, the ritualistic ceremonies of the Archbishop were abhorrent to him.[1] No wonder is it, then, that after five years had elapsed since the death of Strafford, the name of Maynard should appear in the list of the managers against Laud. They were five in number, Serjeant Wild being the leader.[2] Maynard conducted the charges, from the second to the seventh day of the hearing, when, according to the Archbishop's account of his trial and troubles, he left off, and Mr. Nicholas, "a man of another temper," undertook the managing of the evidence. So that Maynard must have been, at all events, decorous, if not forbearing,[3] for the Pre-

[1] According to Hume, the mode of consecrating St. Catherine's Church gave general scandal. The Prelate approached the west door, and a loud voice cried: "Open! open! ye everlasting doors, that the King of Glory may enter it." The doors flew open, and he solemnly consecrated the ground. Then he went to the chancel, and, taking some of the dust from the floor, threw it in the air. . . . . After this, he bowed frequently to the communion table. . . . . Not content, however, with blessing, he pronounced imprecations upon such as should pollute the holy place by musters of soldiers, or keeping in it profane Law Courts. At the end of each curse, he bowed towards the east, and cried: "Let all the people say, Amen." Then, after the sermon and sacrament, he made many lowly reverences, and, having come to that part of the table where the bread and wine lay, he bowed seven times. There were several other strange doings and bowings, which are mentioned in Rushworth's "Collections," but it is neither expedient nor profitable to dwell upon absurdities which border on impiety. [See Hume's "England," vol. vi. p. 287; "Rapin," vol. ii. p. 86. Rapin adds, that a Roman Pontifical was found in his study, from whence he had copied these devotional exercises to which his own Church, of which he was the head, gave no sanction. This conduct was productive of considerable offence.

[2] See "Whitelocke," vol. i. p. 83.

[3] "His pleadings, though they were strong, yet they were fast."—Wood's *Athenæ*, by Bliss, vol. iii. p. 129.

late complained of the violence of Nicholas.[1] Laud was executed on the 10th of January, 1645, although he pleaded the king's pardon.[2]

Thus Charles lost his second firm friend and devoted subject. The pusillanimity of the monarch, to use a very mild term, destroyed Strafford; and the despotism of his dominion, led to the ferocious exhibition of unpopularity, which gave countenance to the enemies of the Archbishop.

Chartham is a church in Kent, not very far from Canterbury, at this day famous for its old brasses. The living was vacant, the prelate in prison and under a heavy charge. Nevertheless, when the Parliament sent him first their recommendation, and next their peremptory orders to collate a Mr. Corbet, he refused compliance. The Parliament then suspended his jurisdiction, and seized his temporalities. But the origin of this serious trouble came from the king, who sent to Laud, first, an order to give the living to another person, and, should the Parliament issue opposite commands, then to let it lapse to the Crown. But, moreover, Charles issued to his favourite, as he was called, a general order, that he should not dispose of any spiritual promotion without the previous sanction of his sovereign. If obstructed by the Parliament, he was to suffer all the benefices to lapse. Laud obeyed the injunction as long as his diocesan power

[1] This must have been Robert Nicolas, one of the Protector's Judges.

[2] "State Trials," vol. iv. p. 640; Cobbett's "Parliamentary History," pp. 323, 324.

remained. But Prynne, who had gone through one persecution with the loss of his ears, and a second under a sentence which ordained that he should be deprived of what little remained of them, was not likely to forget the persecution of the Church in the day of retribution.[1] He was, it may be easily supposed, a main agent in hastening the catastrophe which left the monarch less a very devoted subject.

About 1647 Maynard was, perhaps, at the head of the profession. Bulstrode Whitelocke informs us that he attended the House in 1647, and that Mr. Maynard and himself were talking about their Circuit gains. . . . . Maynard told Whitelocke that he got in the last Circuit £700, which, says the writer of the "Memorials,"[2] "I believe was more than any one of our profession ever got before." . . . . No doubt he was astute in the strict sense of that word, but he could not have deviated in any remarkable degree from correct behaviour, for North always treated him with great respect. Each, indeed, mistrusted the other. The one, as his brother will have it, always took part against the Chief Justice, but "never outwent discretion." And there was a fair and reasonable correspondence between the two, which could not have been, if the Serjeant had entered upon a direct

[1] Mrs. Macaulay's "History of England," vol. iv. pp. 140, 141, citing "The Troubles and Trials," pp. 200, 203; an authentic book, published in 1695.

"Well as Charles loved, and highly as he venerated the Church, he idolized yet more his own power."—*Mrs. Macaulay*, vol. iv. p. 146.

[2] Vol. ii. p. 273.

course of opposition.[1] . . . . The same writer insists upon his being artful as well as learned, and capable of laying "notable snares." When discovered, he calmly withdrew from any contest, and immediately sat down.[2] . . . . These passages of artifice were in keeping with the practice of the famous Saunders, who, in his turn, was a formidable adversary to a forensic opponent, and tried Maynard's sharpness to the utmost. It is singular that, as Hale watched Saunders with an entire want of confidence,[3] so did Lord Chief Justice North regard Maynard with a due amount of vigilance. Pemberton is said to have ruled a point according to a case cited by the Serjeant. This case could not be found. "Brother Maynard might as well have tossed his cap into the air, or laughed in my face," said the Chief Justice North.[4]

Many of his arguments in the causes which he pleaded, will be found in the Law Reports of Sir Thomas Hardres and Thomas Siderfin. He was much employed during the Commonwealth, but Mr. Style, a barrister, who published the notes of that period, abstained from giving the names of the counsel. . . . . However, it was quaintly, though good-humouredly, said of the great lawyer: "That all parties seemed to be willing to employ him, and he seems to have been

[1] North's "Life of Guilford," p. 115. [2] *Id.* p. 116.

[3] See the Life of Saunders, in the "Law Magazine," for February, 1867, p. 223.

[4] Campbell's "Chancellors," vol. iv. p. 38.

equally willing to be employed by all."[1] And it is related that, during the debate concerning the famous remonstrance of the army, in 1648, which led to the surrender of the king, Maynard extolled the gallant deeds of the army, but "*firked*" them for their remonstrance, showing how it tended to the destruction of the kingdom, and the dissolution of Government. Upon which, the parliamentary historian remarks, that "Mr. Maynard argued as if he had taken fees on both sides."[2]

A disciplined army, devoted to their commander, is a dangerous host to arouse when political power is in the balance. We remember this in Jewish history, when the great military captains, Jehu and Joab, held the powers of Israel and Judah in their grasp. The Roman legions and Prætorian guards changed frequently the face of empire. The destruction of the Janissaries arrested the fall of the Ottoman dynasty. The Scotch soldiery mastered the liberty of their sovereign, King Charles; and the wily General, Monk, Duke of Albemarle, restored a Stuart to the throne. . . . . .

In peaceful times, the soldier will not move. He is under authority: a more stern obedience than his can scarcely be conceived. But, when factions and turbulent demagogues, having no defined line of action,

[1] Lyson's "Environs of London," vol. ii. p. 235. Pepys got into trouble about a mortgage between two contending powers, but "they agreed to refer it to Serjeant Maynard."—*Diary*, vol. ii. p. 180.

[2] "Cobbett," vol. iii. p. 1128.

disturb a country with threats of change which they have neither strength nor understanding to carry out, there are ever men within an easy distance, ready to gather the harvest which has been sown by hands too feeble to reap. Thus, amidst the distractions of contending parties, a formidable thirdsman arrives, who puts his sword into the scale and wins the day. This thirdsman was Cromwell. He broke in upon the Parliament, as Napoleon scattered the Directory. But, as these considerations bear strongly upon the life of Maynard in his early parliamentary career, it may be at once remarked, that he was one of the Commons, and an active member likewise when they commenced those serious struggles for the redress of grievances which rapidly resulted in rebellion and revolution. . . . .

It has, however, been strongly urged, that he shuddered at any violence being offered to the monarch. He was the eminent lawyer mentioned by Clarendon, who opposed the declaration made by the army, and forced upon the Parliament, that no more addresses should be presented to Charles. He was vehement against it, and plainly informed the Commons, that, by this course, "they did as far as in them lay, *dissolve the Parliament.*" No man after that could join them in their counsels. It was of the essence of parliaments that they should at all times report to the king, that the refusal of His Majesty to receive their petitions or admit their addresses, had always been held the highest breach of their privileges,

because it tended to their dissolution without dissolving them.'[1] This was a formidable speech from a man of such weight, and hence, the faction of Cromwell clamoured for the question, and carried it. Some were afraid to dissent, others, and Maynard with them, withdrew themselves, and bore no farther part in their counsels. "Maynard came no more to the house in very many months, nor till there seemed to be such an alteration in the minds of men, that there would be a reversal of that monstrous determination."[2] . . . .

Maynard always supported the famous Lilburne. This gallant officer had been heavily fined by the House of Lords, and in 1648 was a prisoner in the Tower. In that year, the great advocate took up his cause, and gloriously succeeded.[3] His speech produced at once the discharge of Lilburne. He insisted that the crime of the prisoner was not specified. "Festus," said he: "the Pagan and corrupt Judge, who expected a bribe from poor Paul, would not send him to Cæsar without specifying the cause in his mittimus. Lieutenant-Colonel Lilburne is committed in order to his trial at law, and yet is debarred all law." Upon his

[1] Clarendon's "History of the Rebellion," vol. x. p. 149.

[2] *Ibid.*

[3] It is strange that historians persist in confounding this lawyer with the Maynard who was one of the eleven members sent to the Tower, but afterwards restored to the House. See "Parliamentary History," vol. iii. p. 959. *That* Sir John could not have made the learned speech reported in the "History;" and, besides, the lawyer was not Sir John in 1648.

Habeas Corpus, the Judges confessed the warrant to be illegal, yet they durst not release him.[1]

In 1653 Cromwell assumed the title of Lord Protector, and on the 4th of February in that year Mr. Maynard was created a Serjeant.[2] Upon this occasion he took what was called the engagement, a written recognition of the Protector's authority, and an *engagement* not to propose or consent to any alteration in the Government, as it was settled in a single person, and in Parliament.[3] Nevertheless, in July, 1653, we find him with other great advocates as counsel for Colonel Lilburne, who was charged capitally with returning from banishment. Having taken exceptions to the indictment, the Colonel insisted that Serjeant Maynard's opinion was in favour of demanding Oyer.[4] And, further, he produced a paper signed by the Serjeant, impugning the mode of pleading. For, said counsel, "found, and feloniously remaining," is insufficient, without "feloniously found." Next, "then and there feloniously remaining would have been the correct allegation. Therefore there was neither a felony, nor time, on the record." Upon this a stout battle arose concerning the receiving this paper; but there was Maynard's hand, and the Court could not

[1] "Parliamentary History," vol. iii. p. 962.

[2] Wood's "Athenæ," vol. ii. p. 650; Lipscombe's "Bucks," vol. iv. p. 107. Wynne says it was Feb. 9. "Serjeant-at-Law," p. 71.

[3] Wood's "Athenæ," vol. ii. p. 650; Hume's "England," vol. vii. p. 241.

[4] That the record should be read.

stifle it. The Lord Mayor and Recorder spent some time in reading the document, "which, (an observant person might easily see very much troubled both)."[1] The Recorder then told the Lord Mayor that he did not wonder at Mr. Norbury's signature, as he was one of similar principles to Mr. Lilburne; but "for Mr. John Maynard, one of the greatest lawyers of England, one of the greatest practitioners of the nation, for him to set his hand to such exceptions, is that (my Lord) amazeth me."[2] . . . . Yet we are informed that the counsel assigned refused to appear for him, and that Maynard was ill.[3] The verdict of the jury was—"Not Guilty," for which they were summoned before the Council of State, and examined; but nothing further happened.[4]

In 1656, three years after the assumption of the Protectorate, and when kingly honours were about to tempt Cromwell, a remarkable incident in the life of Maynard occurred. The Protector wanted money, and, although he always had a kind of puppet for a Parliament, he was quite able and ready to levy taxes without any legislative assistance. So he laid an extraordinary tax upon the city. Mr. Cony, a merchant, refused to pay his portion, and dissuaded others from compliance with the demand. He had

[1] "State Trials," vol. v. p. 442.

[2] *Ibid.* Norbury was a Welch judge, and the only counsel who joined Maynard in the signature.

[3] *Id.* p. 443.

[4] *Id.* pp. 443—450.

been an eminent fanatic, and, therefore, Cromwell tried to win him over by kindness or cajolery; but in vain. "I have a will as stubborn as yours," exclaimed the Protector," "and I will try which of us two shall be master." . . . So Cony was sent to prison with reproach and contempt. However, in the next term, he sued out his Habeas Corpus, and there was Maynard for his counsel. When we come to sum up the character of this lawyer, we shall not fail to bring to mind an independent incident like this in the heart of despotism . . . . Mr. Cony's fees could not have been sufficient to overpower any sense of fear which the advocate might have felt. He held his forensic oath. So he was unusually earnest, demanding that the writ should be followed by liberty, and insisting that the commitment and imposition were illegal . . . . Even the judges were against their mighty master, although they preferred to intimate what their sentence might be, rather than express too bold an opinion. Upon this the Attorney-General asked for, and obtained, an adjournment of the question. But before the day appointed Maynard was sent to the Tower, with Twisden and Wyndham, for his presumption in doubting the absolutism of the ruler, and the judges were sent for, and reprimanded for suffering such sentiments to be uttered by counsel. According to Clarendon, the rebuke administered was coarse in the extreme, for when the judges mentioned the law and Magna Charta with all humility, the old General of the Com-

monwealth forgot his dignities, and putting a F. instead of the Ch. in Charta, cried out with derision that *that* Magna should not control his actions. Nevertheless, he reverenced the law when it did not come counter to his "Most Sovereign Power." But Maynard's position in the Tower was in no sense comfortable. He and his friends were losing their fees, and, besides, were in the hands of a despot who might conceive something against them more to be dreaded than the fault for which they were suffering. So, after three or four days, it was agreed that they should submit. They begged their liberty, "acknowledged their faults," and said, "they will do so no more."[1] Many of their contemporaries were seized with a noble indignation, and denounced this conduct as craven pusillanimity . . . . "as chusing rather to sacrifice the cause of their client, wherein that of their country was also eminently concerned, than to endure a little restraint, with the loss of the fees for a few days."[2]

In this year a petition seems to have been presented against the Serjeant as a trustee, with respect to some property applied to charitable uses in Devonshire. But the matter was satisfactorily arranged, and Whitelocke gave him a high character during the debate.[3]

[1] State Trials, vol. v. p. 936. [2] *Ibid.*

[3] Foss's "Judges," vol. vii. p. 328. He was trustee under the will of Elizæus Hele, who died in 1635, and left considerable property for charitable uses. Maynard settled the manor of Clistgerald, or Broad Clist, upon the Corporation of Exeter, as trustees of St. John's Hospital, under these powers.—Lyson's "Magn. Brit.," Devon., vol. vi. pt. 2, p. 115. And Clist, or Clist St. Lawrence, in like manner. *Id.* p. 120; *Id.* p. 228. So, again, the sum of

Nevertheless, he was in great trouble about this matter. In December, 1656, a petition was presented to Parliament by Captain Ned Lister against Maynard in the behalf of his wife's portion.[1] This was referred to a Committee, and the Serjeant made his defence on Monday, the 19th January, 1657. When he had spoken, the Committee appointed him a chair, and ordered that he should keep his hat on, being a Member of Parliament. There were, likewise, two counsel on each side . . . . But after just entering upon the case, "The Grand Committee of Religion," called away the Committee.[2]

On the 6th of June the case came before the House. Elizæus Hele was a large testator for charitable uses, especially at Plymouth and Exeter . . . . Elizæus foresaw some trouble, for the Master of the Rolls, upon this day said, he had observed "old Hele" weep when the anthem was sung.

> "In getting goods, and cannot tell,
> Who shall the same enjoy."[3]

Another member had previously quoted the first lines.

£10 per annum for the support of a charity school at Moreton Hampstead. It had no other endowment. *Id.* p. 358. Again, under the same trust, he gave lands of Plymouth town; half to the governors and guardians of the poor, and half to such charitable purposes as the heirs of Sir John Maynard should appoint. *Id.* p. 405. So, again, as trustee, he founded the Grammar School at Plympton. *Id.* p. 410. See a further account in Burton's "Diary," vol. ii. p. 187, note; and "Prince's Worthies," with the additional notes, p. 487.

[1] Burton's "Diary," vol. i. 197. See pp. 227, 258 . . . . She was the testator's great grand-daughter.

[2] *Id.* p. 366.

[3] Ps. 39. Sternhold and Hopkins.

So that "old Hele" was well known. But the acute and honest lawyer, who was the trustee, and now called before the House, said, that this Captain Ned Lister might have £2,000 or £3,000, if justice could be done to the charities. But Maynard had told the Committee that the "whole lands would but settle the charitable uses." It was quietly suggested, that if the charities were attacked, and the Serjeant were to die before the next Parliament, or were even to survive, there would be a costly redress of wrongs on the behalf of the pious uses.

So a grand innovation was made upon the crabbed rules of our charitable schemes. It was a bright flash of genius; but to relieve the heir, the wife of the unfortunate Captain, might "*be as much charity as any of the other uses.*" The debate then went on. Whitelocke stood up, and said, that no stain should rest upon Maynard. He had been brought up with him from a child, and was assured of his justice and honesty. The struggle then began, whether to send the matter back to the Committee, or to bring in a bill to confirm the charities, and remit the surplus to the heir. There was a little warmth, and a division, seventy-two for the bill, forty-eight for the re-committal. So that the effect of the resolution was to agree with the Committee that the remainder of the estate, after satisfying the charity, should be settled upon the lady . . . .[1] Whether any surplus re-

[1] Burton's "Diary," vol. ii. pp. 182—189.

mained, contrary to Maynard's opinion, we are not informed.

It is matter of history that Cromwell refused the English Crown after much debate and discussion. Maynard's name occurs amongst numerous lawyers who were "vehemently for this."[1] But Burnet is not to be implicitly trusted . . . . And other accounts affirm that the Serjeant took no part in this serious matter.[2] Indeed, he declined to be one of Cromwell's peers, alleging the necessary retirement from his profession as a legitimate excuse.[3]

The annotator of Burton's "Diary,"[4] following Burnet, speaks of "one longing, lingering glance at the favourite, but impracticable project of royalty." But Maynard, on the contrary, in the very debate concerning a House of Lords, where he declined to sit, said: "I shall not tell you of a king now. It is not material."[5]

He was, in either case, in high favour, for on the 1st of May, 1658, he was made the Lord Protector's Serjeant.[6]

Cromwell died soon after this struggle for or against royalty, and Maynard, having sworn allegiance to Lord Protector Richard, had his patent renewed as

[1] Burnet—"His Own Times," vol. i. p. 68.
[2] Foss's "Judges," vol. vii. p. 328.
[3] Campbell's "Chancellors," vol. iv. p. 16.
[4] John Towell Rutt.
[5] Burton's "Diary," vol. ii. p. 461, n.
[6] Whitelocke's "Memorials," vol. i. p. 673.

"Prime Serjeant." However, he soon joined Monk as a leader of his party, the Presbyterian, although he waited till the second renewal of the Rump Parliament, before he would venture to take his seat. Then, indeed, he became one of the thirty-one members of the Council of State, and was appointed with Prynne and Colonel Harley to carry into effect a vote discharging the declaration previously required from the members, that they would be faithful to the Commonwealth, without a king or House of Lords, thus removing one of the greatest obstacles to the return of the king.[1]

Charles II. had now mounted the throne of his ancestors. Kings, whose accession is a change of the Government, must inevitably be guided, upon many occasions, by the opinions of their councillors. The immediate accessaries to the death of the late monarch, were, of course, selected for punishment. But Maynard had no hand in the king's trial and execution. He was found in 1660 the Protector's Serjeant, and in full business; and it was known, that Cromwell had sent him to the Tower as the resolute advocate of Cony, whose case was actually compromised, as we have seen, notwithstanding the dastard submission, *as some have said*, of his counsel. Instead, therefore, of the retirement which fell to the lot of so many of his contemporaries, honours awaited

[1] "Parliamentary History," vol. iii. p. 1583; Campbell's "Chancellors," vol. iv. p. 16; Foss's "Judges," vol. vii. p. 329.

the acceptance of Serjeant Maynard, and forensic prosperity was showered upon him. He was at once called to the degree of Serjeant,[1] and on the 9th of November following, he had his patent to be one of the king's serjeants,[2] and received the honour of knighthood. . . . . The title was not uncommon, indeed, it was at one time almost universally bestowed upon the Serjeants of the Crown.[3] But it was remarkable, that Sir John Maynard, notwithstanding his liberalism and countenance from the Lord Protector, should be offered a seat on the Bench in Westminster Hall. Still more worthy of notice is it, that he should have had the sagacity instantly to decline it. Yet, considering the unprecedented revolutions in the judicial office during the latter part of this, and the whole of the succeeding reign, as well as the constant change of Judges in the days of the Protectorate, it cannot create surprise that the Serjeant stedfastly abstained from occupying a dignity so pregnant with uncertainty, so little calculated to add to his reputation, or even to aid him in his worldly prospects, now, as to fortune and estates, in a high state of promise. . . . .

[1] June 1, 1660.—*Wynne*, p. 71. [2] *Id.* p. 85.

[3] Glynne, the Protector's Chief Justice, who succeeded Rolle, was also made King's Serjeant. Pepys gives an account of Charles's coronation, and celebrates the absence, in general, of mischance on that day. "But it happened," said he, "only to Serjeant Glynn, whose horse fell upon him yesterday, and is like to kill him, which people do please themselves to see how just God is to punish the rogue at such a time as this, being now one of the King's Serjeants, and rode in the cavalcade with *Maynard*, to whom people wish the same fortune." —*Diary*, vol. i. p. 225.

He still, however, remained in the House of Commons, being returned in 1660 for Exeter.[1] In 1660 he held a distinguished position at his Inn of Court. For there was a great call of serjeants, and he was "Comptroller" of the feast. This was a magnificent ceremony. Both the Chief Justices happened to have been members of the Inner Temple, and, therefore, the "counting"[2] took place there. From thence they went to the Common Pleas, where the Chancellor, and all the Judges and Barons were sitting, with several members of the Inns of Court and the Chancery, attended by 200 servants in party-coloured liveries. All the officers of the Courts and the butlers of the Societies likewise accompanied them in party-coloured gowns. Then, immediately before the new serjeants, went three knights in party-coloured gowns: Sir —— Carew, the Marshal of the Feast, Sir Francis Clarke, the Steward, and Sir John Maynard, "Controwler." This grand festival[3] took place in the famous Middle Temple Hall. There were present the Lord Chancellor and many Lords of the Council and

[1] He sat for Plymouth *in the same year;* in 1661 for Berealston; in 1680 for Berealston; then he went back to Plymouth; in 1681 for Plymouth, but not as Lyson says, during all the reign; "Magn. Brit." vol. vi. pt. 2, p. 3971; and lastly, in two parliaments of William and Mary for Plymouth.—See Willis's "Not. Parl." vol. ii. County of Devon.

[2] "Counting" was merely arguing a case in brief, to show the fitness of the lawyer for his coif. . . . . The custom still exists when a Serjeant is made *in Term.* It is like the "probations" in Scotland, when the Right Hon. George Patton was made Lord Justice Clerk, in 1867. He went through this form before he was called to the Bench.

[3] Or "Great Treat."

noblemen, together with the Judges and the ancient Serjeants in scarlet, the Mayor and Aldermen of London, &c.[1]

Sir John took a great interest about this time on the question of assigning a proper revenue to the Crown. It was proposed to levy a considerable sum, by raising duties upon ale, beer, cyder, perry, mead, vinegar, strong waters, coffee, tea, chocolate, and sherbet. Very great opposition was manifested, and the bill was carried by the slender majority of two—151 to 149. Maynard and Trevor ended the debate, both being favourable to the imposition, but Trevor said, that nothing but taking away the Court of Wards would have "moved him to it."[2]

In 1663 Sir John probably settled finally at Gunnersbury, being then about sixty-one. Webbe, a pupil of Inigo Jones, built his house. In the grounds were several cedars of Lebanon of considerable girth. The premises consisted of about 95 acres, surrounded by a lofty brick wall.[3]

Let us introduce just by way of episode, an incident which happened the learned King's Serjeant in the early days of King Charles II., of importance to the order of Serjeant, especially with regard to the large and general oath which they take upon their appointment.

[1] See a full account in a book entitled, "Reports of Special Cases," by Thomas Siderfin, Esq., vol. i. p. 2.

[2] Harris's "Lives," vol. iv. p. 373.

[3] Lyson's "Environs of London," vol. ii. p. 226.

It is known that a Queen's Serjeant or a Queen's Counsel cannot plead in a case in which the Crown is concerned, unless a licence to that effect is previously granted. In 1669 there was a case in the King's Bench, and Maynard, whose promotion we have just mentioned, was about to argue against a forfeiture which the king claimed. The Lord Chief Justice of that day was Kelyng, or Keeling, one of whose sons was a King's Counsel and a King's Serjeant,[1] and another a reporter of some estimation.[2] . . . . "Brother Maynard," said the Chief, "You would do well to be advised, whether or no, you being of the King's Counsel, ought to argue in this case against the king." This sudden interruption seems to have nettled the Serjeant for the moment. He answered, that the "King's Counsel would have little to do, if they should be excluded in such cases;" and then he cited an instance where Serjeant Crew[3] had done the same thing, which it was now sought to obstruct. Judge Twisden then interposed, and allowed that Maynard was quite correct, for there had undoubtedly been such precedents, but he warily suggested, that "if my Lord thinks it not proper, my brother Maynard may give the argument to some gentleman at the bar to deliver for him." This was light handling. The Serjeant seems to have submitted, and the discussion

[1] The only instance of the union of both ranks in one person.

[2] Known as William Kelyng.

[3] Brother of Lord Chief Justice Crew, temp. Car. I., of whom see an account in "Foss," vol. vi. p. 289.

was renewed by other counsel. He had, at all events, the satisfaction of finding that the Court were unanimous in supporting his view of the case.[1] . . . .

It is difficult to forbear from noticing the value of the institution and rank of Serjeants-at-Law after reading this little legal debate, which expressed no more than what is now the rule. In proceedings of magnitude, when the Crown is concerned, there is always a desire to retain the services of an advocate of some rank on behalf of the accused. And the Crown Counsel are frequently called upon to undertake a defence which must be sanctioned by authority. There is, nevertheless, admitting the high abilities which distinguish many of those eminent men, a love of independence in this land of freedom which fondly regards an advocate of dignity and station, not dependent on the Crown, and bound by a solemn obligation to plead for all. And this advocate is the Serjeant-at-Law.

Maynard's talents, ambition, political tendencies, personal animosities, had now resolved themselves into the great man of law, the arbiter of forensic disputes, the oracle, which having spoken, lulled instantly all antagonism.

We will give one amusing instance from the State Trials, and at some length, as showing the temper and rudeness of the Bench. Jeffreys being Chief

[1] The "Modern Reports," by Leach, vol. i. p. 38.

Justice, a stormy conversation took place between him and Mr. Ward (Lord Chief Baron in the reign of King William) during an action against an ex-sheriff for arresting the Lord Mayor. The case of Pilkington, convicted of a riot, was the occasion of the outbreak. Mr. Ward was colouring this transaction by calling it a matter of right and election. "No, Mr. Ward," said Jeffreys, "that was not the question determined there." Mr. Ward: "My Lord, I humbly conceive the issue of that cause did determine the question." Jeffreys: "No! no. I tell you it was not the question." . . . . "I must submit it to your Lordship." Finding that he had a tame counsel, and a clear stage, the Chief Justice expressed his customary coarseness. "I perceive you do not understand the question that was then, nor the question that is now. You have made a long speech here, and nothing to the purpose. You do not understand what you are about. I tell you it was no such question. No; it was not the question. But the defendants there were tried for a notorious offence, and a disorderly tumultuous assembly. Do not make such excursions *ad captandum populum*, with your flourishes; I will none of your enamel, nor your garniture." "Will your Lordship please to hear me?" said the Counsel. Jeffreys: "If you would speak to the purpose, come to the question, man! I see you do not understand what you are about." "My Lord!" "Nay, be as angry as you will, Mr. Ward." Then

there was a little hiss begun. Lord Chief Justice: "Who is that? What, in the name of God! I hope we are now past that time of day that humming and hissing shall be used in Courts of Justice; but I would fain know that fellow that dares to hum and hiss while I sit here; I assure him, be he who he will, I'll lay him by the heels and make an example of him. Indeed, I knew the time when causes were to be carried according as the mobile hissed or hummed, and I do not question that they have as good a will to it now." The humming must have perplexed Jeffreys, because it was used as a mark of approbation in conventicles. But the hissing was clear enough, and the remembrance of the conventicle, in union with that noise, was too much for the irritable Judge. "Come," Mr. Ward," he continued, "let us have none of your fragrancies, and fine-rhetorical flowers, to take the people with." He was, however, a sufferer from acute pain, which he strove to control by an outburst of impatience towards the first who fell in his way; but, in the midst, there was a layer of cunning, which he was ever ready to apply at any cost, so that he might remain master of the field. Whilst, then, he was blustering, and Ward civil, the learned Maynard arose with dignity, and stated calmly to the Bench the state of the law upon the subject. That law Jeffreys adopted and made his own on the spot.

One day, however, Jeffreys is reported to have broken loose upon his instructor, who was mellow with age.

"You have grown so old as to forget the law, Brother Maynard." "'Tis true, Sir George," was the reply. "I have forgotten more law than ever you knew."[1]

However, whilst he maintained his civil business with a great degree of vigour, he was still engaged in most of the celebrated State prosecutions. We will forbear from tiring the reader with dry details and speeches long since forgotten, and will refer in a note to some of the principal prosecutions, which he either conducted or opened as the eldest Serjeant, or took part in as a Member of Parliament.[2] Mr. James,

[1] Woolrych's "Life of Jeffreys," p. 99 n.

[2] Senior Counsel against Mr. James, a Sabbatarian Baptist, for high treason, by speaking seditious words in the pulpit, Nov. 19, 1661.—*State Trials*, vol. vi. p. 67.

Proceedings against the Earl of Orsory for high crimes and misdemeanors, Nov. 25, 1669.—*State Trials*, vol. vi. p. 913.

Proceedings against the Earl of Clarendon, Oct. 26, 1667. In Parliament for high treason and high misdemeanors.—*State Trials*, vol. vi. p. 350.

Lord Morley for Murder, April 28, 1666.—*State Trials*, vol. vi. p. 774.

Viscount Mordant for high crimes, &c., 1666,—one of the Managers.—*State Trials*, vol. vi. p. 796.

Tong and others for high treason, Dec. 13, 1662.—*State Trials*, vol. vi. p. 232.

The Case of the Earl of Shaftsbury, in favour of the return to the Habeas Corpus . . . . 1677 . . . . .—*State Trials*, vol. vi. p. 1290.

Against Coleman, Nov. 9, 1678. He was not temperate.—*State Trials*, vol. vii. p. 6.

Lord Cornwallis for murder, 1678. Maynard opens and sums up.—See Campbell's *Chancellors*, vol. iv. p. 20.—*State Trials*, vol. vii. pp. 149, 154.

Fitz Harris for high treason, 1681. Maynard against the plea, but Jeffreys most active.—*State Trials*, vol. viii. pp. 223, 267. Indeed, according to Lord Campbell's *Chancellors*, vol. iv. p. 22, he must have resigned his rank as King's Serjeant had he not appeared.

Dr. Plunket for high treason, May 3, 1681.—*State Trials*, vol. viii. pp. 447, 453, 481.

against whom he appeared, was considered a martyr by the Baptist party,[1] although there seems but little doubt of his disloyalty.[2] Glynne was very bitter against him, and Charles was prepossessed to his discredit, so that when the wife came to beg for her husband, the monarch said: "Oh! Mr. James, he is a sweet gentleman!" And on the next morning he told Mrs. James "that her husband was a rogue," adding, "he shall be hanged; yea, he shall be hanged!" And the conduct of Chief Justice Foster was at once insulting and unfair, and suffers sadly in comparison with that of "Rolle and Hale in the days of the Com-

Thompson and others for a libel, June 20, 1682.—*Id.* p. 1366. He was rather violent, p. 1385.

Knox and Lane for a misdemeanor, Nov. 25, 1679.—*State Trials*, vol. vii. pp. 763, 767.

Tasborough and Price for subornation, 1680.—*Id.* pp. 882, 887, 920.

Sir Thomas Gascoigne for high treason, Jan. 24, 1680.—*State Trials*, vol. vii. p. 959.

Eliz. Cellier, 1680.—*Id.* p. 1043.

Viscount Stafford for high treason, 1680.—*Id.* p. 1298. But Maynard, although for the prosecution, was not so resolute as against Strafford and Laud. See, however, Campbell's *Chancellors*, vol. iv. p. 20.

Proceedings against Chief Justice Scroggs, 1680. In Parliament.—*State Trials*, vol. viii. pp. 163, 208.

Pritchard and Papillon arresting the Lord Mayor during his year of office. Maynard for the defendant. Damages £10,000, Nov. 6, 1684.—*State Trials*, vol. x. 319, 330.

Proceedings against the Earl of Danby for high treason.—*State Trials*, vol. xi. pp. 599, 785.

Proceedings against Sir Adam Blair and others for high treason. In Parliament, June, 13, 1688.

[1] Ivimey's "History of the Baptists," pp. 320—327.

[2] This was the blunder which Governor Eyre fell into. Few doubt Mr. Gordon's complicity in the turbulent assemblies of Jamaica; but the assumption of the offence for which he suffered was premature and impolitic.

monwealth."[1] Maynard, although employed, was forbearing. . . . .

When the House proceeded against Lord Clarendon for grave offences, the Serjeant, no doubt, remembered his ancient friendship for him and his cousin. He raised powerful difficulties in the way of prosecuting the great Chancellor for treason;[2] and, at length, an Act was passed for sending him into banishment.[3] . . . .

Clarendon, on his part, was tender of Maynard. He spoke highly of his cousin's professional associates, of Lord Keeper Lane, of Sir Geoffry Palmer, Mr. John Maynard, and Bulstrode Whitlocke, "all men of eminent parts and learning out of their professions, and of signal reputation in them." "And though the two last did afterwards bow their knees to Baal, and so swerved from their allegiance, it was with less rancour and malice than other men." The noble author then goes on to attribute their "infirmities to a general defection and prosperous rebellion."[4] Thus kindly did the Earl express himself towards the recreant advocate he had so long remembered as a social debater. Warburton was by no means so tolerant. The author of the "History of the Rebellion" had marked the professors of the law as standing upon the ground they had won, masters

[1] "State Trials," vol. vi. p. 76.

[2] "State Trials," vol. vi. pp. 326, 345, 349, 350; "Parliamentary History," vol. iv. p. 377.

[3] "State Trials," vol. vi. p. 391.

[4] "Life of Clarendon," vol. i. p. 62, margin.

of the field, and wearing, it might be, some of the trophies and spoils ravished from the oppressed, and warned them against their suicidal eloquence.[1] But the Bishop must fill up the blanks, and, therefore, in his note to this passage, he drily adds: "Whitlock, Maynard, Widdrington."[2]

It is pleasant to turn from the sour humours of politicians to that bright sunshine of early memory, which breaks through the clouds of after life, and warms the remembrances of youthful friendships. To this generous nature Maynard owed his promotion at the inauguration of Charles II. Concerning ancient attachments, James Howel writes thus to his friend Caldwell in 1619:—

"My dear Dan,

"Our first league of love, you know, was contracted among the Muses in Oxford, for no sooner was I matriculated to her, but I was adopted to you; I became her son and your friend at one time: you know I followed you then to London, where our love received confirmation in the Temple, and elsewhere."[3]

Of such a nature, though less intense, was the intercourse between Hyde and Maynard. Wood, however, the author of "Athenæ," fell into a serious dilemma

[1] Vol. i. p. 435.
[2] Notes, vol. vi. p. 505.
[3] "Elegant Epistles," London, 1803, p. 189.

by his party spirit, upon this occasion of the Serjeant's elevation. He so far forgot himself, as to write that this happened by the "corrupt dealing of the Lord Chancellor." Actions by executors for defamation of the testator, and proceedings by heirs in a similar case, are by no means unknown to the experienced lawyer. It is, therefore, by no means surprising that, *for this expression*, the son prosecuted Antony Wood for the evil speaking against Lord Clarendon, and we may add, that judgment was given in the Vice Chancellor's Court of Oxford against the historian.[1]

At the trial of Tong and his accomplices, Sir John was a leader, and was bitter against them. "There is no doubt," he said to the jury, "but they would give a verdict against such miscreants as these. He was enraged at the allegation against Stubbs, who was charged with saying, that "there should not be a lawn sleeve, never a sursingler should have a hole to hide his head in.[2] A strange revolution in politics was revealed at the trial of Plunket, the titular Archbishop of Ireland, when Maynard attended as Crown Counsel. The Doctor was remonstrating against being brought out of his native country and from his witnesses, who would not appear for him in England, through malice, as he said. "These men used to call me, 'Oliverus

[1] Wood's "Athenæ," by Bliss, vol. iv. p. 753, note 3; Kennett's "History of England," vol. iii. p. 669. Another passage see in David Jenkyn's "Collection," p. 643, rather more offensive. [Baker.]

[2] "State Trials," vol. vi. pp. 225, 232.

Cromwellus,' out of spite." Serjeant Maynard: "*You are very like him, a destroyer of the Government.*"[1] Upon the trial of Sir Thomas Gascoigne for high treason, Maynard seems to have said an ungenerous thing. The last words for the prosecution were his:—"And our evidence is given in all upon oath, and theirs is not."[2] But he was no doubt earnest in his conviction of the prisoner's guilt, and such a speech may be laid to the crookedness of the times.

In 1671 he stood up for the BRITISH JURY. Skinner, a rich merchant of London, suffered some injuries from the East India Company, and petitioned the House of Lords, who awarded him costs and damages to the amount of £5,000. The Commons denied this original power of the Lords, and they fell upon Skinner as the prosecutor of the suit, and ordered him into custody. After some conferences, the Lords persisted, and there was a great ferment between the houses. At length, a vote of the Commons, declaring that whoever should aid in executing the sentence of the Lords should be deemed a betrayer of the rights and liberties of the Commons of England had its effect, and alarmed the supporters of the prosecutor.[3]

The celebrated argument of the Serjeant at one of the Conferences, has been presented to us. The vote of the Commons was, that the cognizance of the cause and the proceedings thereon were not according to

[1] "State Trials," vol. viii. p. 481. [2] *Id.* vol. vii. p. 1036.
[3] Hume's "History of England," vol. vii. p. 454.

law. "The proceeding was summary, it was by English petition, and without all formality requisite.[1] By this way of proceeding, the subject loses that legal and indifferent way of trial which the law both provided for him, by jurors for his own condition, which is as much his right, yea, his birthright and inheritance, as his lands are; and without which he is not sure to keep them, or anything else. This way of trial is his fence and protection against all storms of power, and against all frauds and surprises, if the institution thereof were duly observed, as it ought to be,—therefore the Commons are careful to jealousy, that this their liberty and buckler be not taken from them."[1]

In Parliament and upon constitutional questions, Sir John was not less active. Shaftesbury was committed to the Tower for insulting the House of Lords by insisting on the invalidity of Parliaments not summoned triennially, and on the nullity of their acts. Refusing an apology, he sued out unsuccessfully a writ of Habeas Corpus. The Judges held, that they had no jurisdiction. Maynard distinguished between ordinary commitments and the Supreme Court of the realm, and denied that inferior Courts could adjudi-

[1] Grey's "Debates," vol. i. pp. 445—462, and in particular p. 447. Lord Campbell was struck with these passages. "We ought to value still more highly" said he, "his encomium on the great palladium of our freedom."

This eminent Judge, although he was willing to allow the verdict of a majority of the jury in civil cases, was yet firm and determined against any attempt at disturbing the unanimity of the twelve men in criminal charges.

See the Pamphlets of the time.

cate upon such high privileges. "Luckily for Parliamentary privilege," says Lord Campbell, "the Government wished to detain Shaftesbury in custody, or this unanswerable reasoning might not have prevailed, but the Judges unanimously adopted it," and the Earl was remanded. He, however, was compelled ultimately to submit.[1] Sir John was opposed to the appellate jurisdiction from Courts of Equity to the House of Lords, but the Commons ordered his arguments, although they failed, to be entered in their journals, "*In perpetuam rei memoriam.*"[2] . . . . He was

[1] Campbell's "Chancellors," vol. iii. pp. 331—333; vol. iv. pp. 18, 19; "State Trials," vol. vi. pp. 1269, 1290. The precedent hitherto has been respected. "When I (Campbell) was Attorney-General, in the case of the Sheriffs of Middlesex, I settled the warrant in this general form: 'Some observations were made by the Court of King's Bench as to the impropriety of preventing them from seeing the true cause of commitment, but they held it sufficient.'"—Vol. iii. p. 332 n.

[2] Campbell, vol. iv. p. 19. Some few more cases in which he took an interest, shall be subjoined in a note.

The Discussion on the Declaration of Indulgence, 1672, 1673.—*Parliamentary History*, vol. iv. p. 524.

Debate on Elections, 1675.—*Id.* p. 783.

Debate on Wages to Members, 1676, 1677.—*Id.* p. 841.

On Mr. Harrington's Commitment, 1676, 1677.—*Id.* p. 850.

Bill for Preserving the Protestant Religion, 1677, 1678.—*Id.* p. 854.

Irregular Adjournments, 1677, 1678.—*Id.* p. 936.

Carrying on the War with France, 1677, 1678.—*Id.* p. 945.

Removing the Duke of York, 1677, 1678.—*Id.* p. 1033.

Rejection of the Speaker by the King, 1678, 1679.—*Id.* pp. 1102, 1108.

Beheading of Viscount Stafford, ... 1680.—*Id.* p. 1261.

Debate—Placemen and Pensioners, 1680.—*Id.* p. 1263.

Fitzharris, 1681.—*Id.* p. 1335.

Supply, 1685.—*Id.* p. 1374.

Is against a Standing Army; "Parliamentary History," vol. iv. p. 1374; and against Howe's Motion for putting some Mark of Infamy on the Parliament of 1685.—Macaulay's *England*, vol. iii. p. 405.

not at all more friendly to treating at Elections than we, of our day. . . . . "Bribing men by drink," he said in the man, "was a lay simony. '*Electiones fiant libere.*' What do men give hogs drink for? To be carried on the shoulders of drunken fellows."[1]

He supported the Exclusion Bill, but whilst he had just altered the words, "Shall we be led like an ox to the slaughter, or a fool to the stocks, and not apprehend our danger?" he "slipped away to the Circuit without leave of absence." He was the father of the House, which was content to send word by his son, that he must be brought back in custody, if he did not return forthwith.[2]

His conduct upon the trial of Viscount Stafford has been severely censured, but there really was not more if so much acrimony on the part of Maynard, as may be fairly laid to the charge of other men of that day, who subsequently rose to high judicial office; men not blasted by party censure, but lauded in the liberal days of the Revolution for judicial virtues and integrity. No doubt, Maynard managed his part with ability, but Jones and Winnington were his leaders. He could not be disloyal to his masters in the case.[3]

Miss Strickland, however, is dissatisfied. "Serjeant Maynard," she writes, "opened the case with great unfairness, appealing to polemical animosities.[4] She

[1] "Parliamentary History," vol. iv. p. 783.

[2] Campbell, vol. iv. p. 26, citing "Com. Journ." vol. viii.

[3] See his Speech.—*State Trials*, vol. vii. p. 1298.

[4] "Lives of the Queens of England," vol. v. p. 653.

goes on telling a story which, as to the Serjeant, does no more than illustrate the temper of the period.

The Lieutenant of the Tower called on Oates, and desired him to keep off the rabble, which were pressing upon Lord Stafford. . . . .

Oates: "They are witnesses."

Lieutenant: "Not half; keep them down."

Oates: "You are only a gaoler, and a rascal."

Lieutenant: "If it were not for your cloth, I would break your head."

This being reported in Court, Maynard said: "It did not become the Lieutenant for a word to tell Mr. Oates he would break his head."

"I should not deserve to be the king's lieutenant," responded the undaunted officer stoutly, "if a man should call me rascal, and I did not break his head."[1]

We must now call attention to two particular incidents, which brought Lord Campbell's strong censure upon the Advocate.

One was the case of Lord Cornwallis for murder. It was a very bad exhibition of drunkenness and ill-feeling on the part of that nobleman and Mr. Gerrard. The latter, probably, caused the death. Yet there was sufficient doubt as to the Peer being principal in the second degree, to warrant the verdict of acquittal. . . . . Lord Campbell, however, cites the Serjeant's remark with bitterness: "Thus stands the case before

[1] "Lives of the Queens of England," vol. v. p. 654.

your Grace and my Lords: it is a case of blood and of cries loud." He would have it that a professional passion for getting the verdict was present. "But to the honour of the peerage," he adds, "The poor boy was acquitted."[1] This "poor boy" and another youth were intemperately wild between one and two in the morning. They first insulted a sentinel in the discharge of his duty, and then were mad enough to contend which of the two should kill him. Happily their swords were in the scabbard. But soon, other two lads were going to their lodging close by, and came up to the stairs leading into the park, where the sentry was, and one of them desired the soldier to call him early the next morning. Thereupon, either Lord Cornwallis or Mr. Gerrard declared that before he went thence, "*he would kill some one or other.*" They then ordered the sentinel to shoot the boy for speaking to him, and one of the lads made some reply, which brought Mr. Gerrard down the stairs with his sword drawn; but the other ran away, and left his companion behind, who had not said a word. The latter fell on his knees, and cried: "Oh, my Lord! it was not I; indeed, my Lord it was not I." Upon which he was immediately thrust through, and died. A more foul murder can hardly be imagined, and, as a preconcerted determination to shed blood on the part of one of the party was proved, and as both had been

[1] "Chancellors," vol. iv. p. 20.

wrangling as to which should kill the soldier, it was hardly a "cold blooded attempt"[1] to convict the prisoner. Maynard might have been swayed too much by indignation at the act of butchering a supplicant on his knees, but the inference drawn as to a passion for getting the verdict is surely erroneous. . . . .

Next, Lord Campbell holds up to indignation an attempt on the part of Maynard to extend the power of impeachment to *new treasons*, not made such by any act, but so called by the process of impeachment and attainder. For this, there could not be a pretence, and it would be strange that so grave an error could have been committed by the master of the day, in civil, criminal, and constitutional law. Lord Campbell cites no direct authority, but refers to Burnet. . . . . Burnet, citing on his part no history nor journal of Parliament, attributes to "Mainard," that the Parliament had a power under 25 Ed. III., to declare what they thought was treason.[2] And Swift, in his notes, says: "Yes, by a new Act, but not with a retrospect there; "*for Maynard was a knave and a fool, with all his law.*"[3] On the contrary, he was very watchful and

[1] Campbell, as above.

[2] "His Own Time," vol. i. p. 441.

[3] *Id.* note 9. Swift, with all his wit and talent, could be scurrilous. To Burnet's account of Maynard's famous speech to King William, he says in his note: "He was an old rogue for all that."—"His Own Time," vol. i. p. 803, note 6. The Earl of Roscommon's verses in the "Ghost of the Old House of Commons" are of a similar character. Amongst other places, they will be found in Campbell, vol. iv. p. 22.

jealous of treasons; and it is doubtful whether his speech, although obscure, can be read with the gloss which Burnet and Campbell, following him, have put upon it.[1] In the first year of James II., a strenuous effort was made by the courtiers to make words treason. But the monarch's eldest Serjeant, just promoted to the rank, "in a very grave speech, laid open the inconvenience of making words treason."[2] It made some impression. He hoped they would keep to the statute of Edward III., and brought the instance of our Saviour's words: "Destroy *this* Temple;" whereas the pronunciation in Syriac (which he gave to the House) was so near to "Destroy the Temple," as to be scarcely distinguishable. . . . . The allusion to the Temple of the Body was quite foreign to a command: "Destroy the Temple."[3] The Duke of Monmouth's landing broke up the Session, and hindered the success, which seemed probable, of this new measure.[4] Maynard's speech against a standing army[5] is able and memorable: "There is already a law, that no man shall, on any occasion whatsoever, rise against the King, Lord-Lieutenant, and Deputy-Lieutenant; have power to disarm the disaffected: if you give thus a supply, it is for an army; and then, may not this army be made of those that will not take the test? Which act was not designed a punishment for the Papist, but

[1] "State Trials," vol. xi. p. 785.

[2] Burnet, "Own Time," vol. i. p. 639. The whole passage is worth reading.

[3] Burnet, as above.

[4] *Id.* p. 640.

[5] November 12, 1685.

a protection for ourselves: and giving this money is for an army. I am against it."[1]

Once more, his conduct was called into question for helping to prosecute Sir Henry Vane, when each had had his share in supporting the Commonwealth. Lord Campbell, following Burton, in his "Diary,"[2] speaks of this act as the most discreditable part of his career. . . . . Some doubt seems to have been thrown upon the actual services of Serjeants Glynn and Maynard against Vane.[3] The Attorney-General (Sir Geoffry Palmer) and Mr. Solicitor Finch certainly opened and summed up the case, and it is true that Serjeant Glynn's name is not to be found in the "State Trials' Report."[4] Nevertheless, it is probable that Glynn did appear in Court upon that occasion, although Burton himself is silent, and the charges are made in a note of the annotator.[5] But, as to Maynard, it is quite clear that he was there, though not active; for Sir Henry insisted that Charles was a king *de jure* only, and that all things were done in the name of the Commonwealth, so that there was no single possession. . . . . But by Maynard, there must be a king regnant, to which Windham agreed.[6] Still, the objection taken is wide of the mark. Both these lawyers were the King's

[1] "Parliamentary History," vol. iv. p. 1375.

[2] "Chancellors," vol. iv. p. 17.

[3] See Foss's "Judges," vol. vii. p. 333.

[4] "State Trials," vol. vi. p. 119.

[5] John Towell Rutt. "Diary," vol. ii. p. 461 n. See also the note by the same writer.—*Diary*, vol. iii. p. 175.

[6] "State Trials," vol. vi. p. 134.

Serjeants. They were under the necessity, in their office, of prosecuting Sir Henry. . . . . They did not, however, press the charge against him. The chief law officers of the Crown took all this burden upon themselves. And the circumstances of accepting office under the Commonwealth was very distinct from Sir Henry Vane's active measures in 1659 against the king, by sending arms to the north, in order to strengthen Lambert's hands against Monk.[1] Acts of a deeper dye than any attributed to Maynard were done by eminent lawyers long after these days.[2]

An incident, not a little curious, happened in the first year of James II. Titus Oates, the great Protestant idol, was brought before a jury for perjury. Maynard was not engaged as counsel, but Oates called him as a *witness*, and desired that he should give an account of the proceedings of the House upon his discovery of the plot. Upon which Jeffreys rejected the evidence. Oates then insisted, but the serjeant quietly replied,—

"I know nothing, truly; nor can I remember anything of it now."

Jeffreys, C. J.: "He says he remembers nothing."

[1] "State Trials," vol. vi. p. 154.

[2] It is said that at the Revolution, Pollexfen, a lawyer of immense practice, could not be Chief Justice of the King's Bench, because of his being concerned in the prosecution of Alice Lisle, so they made him Chief of the Common Pleas. Sir John Holt's great judicial abilities had not then been brought to the test. Sir John, well known by the name of Lord Holt, who had been Recorder of London, was placed in the Chief seat of the King's Bench.

Maynard complained that he had not received notice in particular of the account desired. "I can never swear, to my memory," he added, "for any cause so long ago."

Oates: "I am very sorry Mr. Serjeant Maynard's age should so impair his memory."

Jeffreys: "I dare say. You are not more sorry than he is for his age."[1]

In 1688, when he was still a Member of the House, he was again obliged to shelter himself under his age. There was a debate whether Sir Adam Blair should be impeached or indicted. The former course was determined on. Colonel Birch then urged that the most able lawyers always went to the Lords with the charge. "I see," said he, "a person of great worth, though aged (Serjeant Maynard). I would have him go up with it."

Serjeant Maynard: "Pray put not that upon me, who know nothing of the business. Pray let Birch go, who knows the whole business."

And Colonel Birch, nothing loth, was sent, although applauding the ability of the Serjeant in Strafford's case, so many years by-gone.[2] Yet, very shortly after this, the old advocate and manager was promoted to the commission of the Great Seal as its head.

When James II. ascended the throne Sir John Maynard had a new patent to be his Serjeant, and, by

[1] "State Trials," vol. x. p. 1162.

[2] "State Trials," vol. xii. pp. 1207, 1212, 1217.

seniority, he became the ancient Serjeant. But he seems to have withdrawn from the Courts at this time. For he kept up his practice well until the demise of Charles, after which his name does not appear at *nisi prius*, nor in criminal cases.[1] The Government sadly wanted his services against the seven bishops, but he "plainly declared that he could not in conscience do what was asked of him."[2] Pollexfen, afterwards Chief Justice of the Common Pleas, who was counsel against the Lady Alice Lisle, was in the flood of business during this reign. . . . .

Maynard had, probably, retreated to his country place at Gunnersbury, for James discovered in a short time that he could dispense with the services of a Parliament.

But whilst he was about to summon that assembly in September, 1688, the Prince of Orange's designs became known, and, early in December, His Majesty left Whitehall, and threw the Great Seal into the Thames.[3]

On the 11th of December the peers met at Guildhall, and, before the end of that month, resolved to meet "in their ancient House at Westminster." The

[1] Those who are curious in such matters may refer to the Modern Reports or Select Cases, edited by Leach. It is difficult to understand Lord Campbell, who will have it that Sir John's practice at the Bar remained undiminished when he accepted the Great Seal.—*Chancellors*, vol. iv. p. 29.

[2] Macaulay's "History of England," vol. ii. p. 371, citing Johnstone, July 2, 1688.

[3] "Parliamentary History," p. 19. It was recovered and used again for a short time.—Campbell's *Chancellors*, p. 30.

judges being absent, the peers named five of the most eminent lawyers to assist them, Sir John Maynard standing the first.[1] The Commons also assembled, calling themselves a convention. His Highness's request being considered sufficient to warrant their meeting, Sir Robert Southwel asked, how His Highness could take upon himself the administration of justice without a title? Upon which Maynard quietly observed, that the assembly would lose a great deal of time if they waited till Sir Robert could conceive how that was possible.[2] So the convention met on January, 22, 1689, Maynard being Member for Plymouth.[3] He was in high repute. At his instance the House went into a General Committee on the state of the nation. He was of opinion that the King, as a Papist, had not rendered himself incapable of royalty,[4] but that he had *abdicated*. The House declared the throne vacant.[5] Then there arose a difficulty in the

[1] "Parliamentary History," vol. v. p. 21; Luttrell's "Diary," vol. i. p. 490.

[2] "Parl. Hist." vol. v. pp. 24, 25. "But," says Macaulay, "I have no doubt that Oldmixon is right in putting it into the mouth of Sawyer," "History of England," vol. ii. p. 591, note. That is, Sir Robert Sawyer, Attorney-General to Charles II., not Southwel.

[3] Lord Campbell cannot be correct. He says, "Maynard was returned for Plympton, as well as Berealstone, and chose to serve for the former borough." This was in the convention. *Joseph Maynard* sat for Berealstone, and two others for Plympton. He must have confounded their election with a double return in 13 Car. II., when there was such a return for this place, and when, very soon afterwards, *Joseph Maynard* was elected in the room of Sir John, returned for Totnes.—Willis's "Not. Parl." vol. ii. p. 377. See also *Id.* p. 296.

[4] "Parliamentary History," vol. v. p. 45.

[5] *Id.* 50; Macaulay's "England," vol. ii. p. 621. Maynard, whose voice, though so feeble with age "that it could not be heard on distant benches, still commanded the respect of all parties." See also p. 624.

Lords' House, and a free conference being agreed to, Maynard was appointed a manager. Here he insisted upon the identity of abdication with vacancy.[1] No decision was arrived at, but the Lords were alarmed at the picture which Maynard drew of approaching confusion,[2] and surrendered the point of vacancy.[3] Maynard was then made a Member of the Council of State, in whom the Executive Government was, for some time, vested.[4]

It now occurred to this eminent statesman that the convention must, on no account, be dissolved.

"It is remarkable," says Macaulay, "that the orator who took the most statesman-like view of the subject was old Maynard. In the civil conflicts of fifty eventful years he had learned that questions affecting the highest interests of the Commonwealth are not to be decided by verbal cavils and by scraps of Law French and Law Latin; and being, by universal acknowledgment, the most subtle and the most learned of English jurists, he could express what he felt without the risk of being accused of ignorance and presumption. He scornfully thrust aside as fri-

[1] See his disputation with Lord Pembroke.—*Parliamentary History*, vol. v. pp. 89, 90.

[2] This meant the approach of tumultuous assemblages to insist, under the form of a petition, that there should be no Regency, but a King and Queen. Maynard was foremost in protesting against the attempt of a rabble in the streets to overawe the estates of the realm.—Macaulay's *England*, vol. ii. pp. 638, 639.

[3] "Parliamentary History," vol. v. p. 108.

[4] Campbell's "Chancellors," vol. iv. p. 16; citing Martyn's "Life of Shaftesbury," vol. i. p. 231.

volous, and out of place, all that black-letter learning, which some men, far less versed in such matters than himself, had introduced into the discussion. We are," he said, "at this moment out of the beaten path. If, therefore, we are determined to move only in that path, we cannot move at all. A man in a revolution, resolving to do nothing which is not strictly according to established form, resembles a man who has lost himself in the wilderness, and who stands crying, Where is the King's highway? I will walk no where but on the King's highway. In a wilderness a man should take the track which will carry him home. In a revolution he must have recourse to the highest law, the safety of the State."[1]

But just before the debate he was summoned by William to undertake the office of First Commissioner of the Great Seal. The event took place in Hilary Vacation, 1689.[2] King William first offered the Seal to the Earl of Nottingham, and then, not knowing aright the judicial functions of the country, to the Marquis of Halifax. Upon their refusal a commission was issued to Sir John Maynard, Keck, and Rawlinson. This promotion did not affect the Lord Commissioner's seat in Parliament. He continued to take part in the debates, and although in his 88th year, was able to perform his duties in the Court of Chancery, where he

[1] Macaulay's "History of England," vol. iii. p. 31.

[2] Macaulay's "England," vol. iii. p. 22; citing "London Gazette," March 4, 1688, 1689; Luttrell's Diary, vol. i. p. 506.

presided with a dignity little less than that of Chancellor. At the present day the Master of the Rolls, if a Commoner, may have a place in the House, notwithstanding the several attempts which have been made to dispossess him.

It is said, that these Commissioners used the Seal that had been fished out of the Thames until May, 1689, when a new Great Seal, with the likeness of William and Mary was substituted.[1] . . . .

Lord Campbell remarks, that in consequence of the usage of the Chancery reporters of that time to give the judgments, "*per curiam*," we do not obtain the separate opinions of these new judges. He cites, however, two law cases, in which Lord Maynard's name appears. Upon the law of one of these the learned Lord expresses a doubt. The other, after a discussion, in which civilians and common lawyers took part, was affirmed by the House of Lords.[2] The latter days of the Lord Commissioner, like those of the great Lord Coke, were much spent in Parliament.

On the 16th March, 1689, a Bill was brought in to disarm the Papists. The tide had now set in against the Popish Plot, but Maynard felt, on the contrary, that the nation was yet in peril from the Papists. . . . He was eaten up with zeal. They, the Papists, should resort to their own dwellings, and not depart without

[1] Jeaffreson's "Lawyers," vol. i. p. 29.

[2] "Chancellors," vol. iv. pp. 31, 32. The quotations are in Vernon's "Reports," vol. ii. p. 109; *Id.* vol. ii. p. 124.

licences from the next justices. They might have their religion in their own private houses. "And if any Papist have a hand in firing houses, he should be compelled to help to re-build them."[1]

There have ever been complaints against promoting young men to ships who have not seen sufficient service. There was a debate on the garrisons, and the Commissioner fired up.

"I hear there are young men," said he, "put to command ships that never were at sea before. The question was formerly, Was he a godly man? And he was put in. I asked them whether a godly man could make a watch, or a pair of boots?"[2]

In June he took part against the Earl of Nottingham. Lord Danby, a young Member of the House, was arrested in his pleasure-yacht on pretence of treasonable practices. "Vote it a breach of privilege," said the Lord Commissioner, "and sit not mute upon so plain a breach." And it was so voted.[3]

[1] "Parliamentary History," vol. v. pp. 182, 183. "The Lord Commissioner was carried away so far by religious zeal that he not only spoke in favour of increasing the cruel punishment upon Titus Oates, but actually stood up for the veracity of that impostor, and seemed still alarmed by perils of the Popish Plot."—Campbell's *Chancellors*, vol. iv. p. 32.

I cannot make any sense of this passage. The debate will be found in the pages of the "Parliamentary History."—*Parliamentary History*, vol. v. p. 289.

Maynard seemed to doubt whether Oates was rightly convicted of perjury, but nothing appears concerning his opinion that the cruel sentence should be increased. Indeed, that would be inconsistent with the speech.—See p. 293.

[2] *Id.* vol. v. p. 332.

[3] *Id.* p. 365. See also *Id.* p. 465, Commissary Shales; *Id.* p. 531, Petition from Sir J. Pilkington; *Id.* p. 536, Corporations; *Id.* pp. 611, 613, 617, 623, the Regency Bill. Probably his last speeches which are worth reading.—See Campbell's *Chancellors*, vol. iv. p. 34.

A little before Christmas, 1689, he made a very singular speech. He was coming to his "last words." There was a debate on the state of the nation. "The Prince of Orange coming in," he said, "was a miracle, and that those that helped him in were not destroyed. The address about Shales came to nothing, and, as for the money you have given, I know not what has become of it. When Henry IV. came in upon Richard's abdication a Parliament was in being, but the writ fell upon it; but that Parliament sat, and laws were executed that they made, and are laws to this day. The Commons addressed, that his Confessor might be removed quite from him (James II.). The Lords joined with them. The King answered, he knew no fault by him; but, since the Commons did suspect him, no man should abide in his house to the displeasure of his Commons. There were two Popes at one time, and Europe was divided upon it; the Commons made a request to the King to acknowledge the Anti-Pope. Now, I have told you this, make what use of it you please."[1] Upon the debate on the Corporation Bill,[2] he presumed upon his influence in Parliament, but the clause he supported was rejected.[3]

Then, in March 27, 1690, came on the debates about settling the revenue and supply, which, some think, cost him his place.

"If," he observes, "the King be necessitous, he will

[1] "Parliamentary History," vol. v. p. 504.

[2] January 10, 1690.

[3] "Parliamentary History," vol. v. p. 511.

have necessitous counsellors about him. The revenue of the Crown Land is all gone, and it is aliened from him; he can have nothing from his land, but from Parliament. The question is, what, and for how long you will give him? A king in want can never be quiet. As for the revenue, I would not have it too much. Consider; *quantum*, *quomodo*, *et quam diu*. I move that it may be settled for three years."[1]

He then opposed the Regency Bill, which, however, passed,[2] and, in a few days afterwards, he resigned. He appeared in Chancery, for the last time, on May 14, when he gave judgment in an important case. The new Commissioners were sworn on the next day.[3] We are not informed whether this retirement was voluntary, or consequent upon his opposition. Certain it is, that he did not long survive the sudden break up of his short judicial life.

Luttrell says, that he was removed by the King, and that Sir Anthony Keck quitted his place. A new Commission issued, and Sir John Trevor, Speaker, with Sir William Rawlinson and Sir George Hutchins, were made the Commissioners.[4]

There is a famous saying attributed to him. Probably it happened when he went up to Whitehall with

[1] "Parliamentary History," vol. v. p. 552.

[2] May 7, 1690.—*Parliamentary History*, vol. v. p. 635.

[3] Campbell's "Chancellors," vol. iv. p. 35.

[4] "Diary," vol. ii. p. 52. The truth probably was, that he was too old for his place. His son-in-law, Sir William Rawlinson, was retained, so that there could not have been any personal grudge against Maynard.

an address from the Bar. The phlegmatic Dutchman cast his eyes upon the old gentleman, and observed, that he must have outlived all the lawyers of his time. . . . . "If your Highness," said the courtier, "had not come over to our aid, I should have outlived the law itself."[1]

At length, in the eighty-ninth year of his age, the Lord Maynard, as he was called, died at his house in Gunnersbury, on the 9th of October, 1690, and was buried in Ealing Church with great pomp. The register stands thus: "The Lord Manard was buried the 25th day of October, 1690."[2] His portrait reveals a countenance of remarkable sagacity and counsel. He was thrice married. Elizabeth, his first wife, was buried at Ealing in 1654—1655, where, on a flat stone in the chancel of the church, a memorial of her was placed.[3] . . . . His second, Jane, daughter of Cheney Selhurst, Esq., of Tenterden, and relict of Edward Austen, Esq., was buried there also in 1668.[4] His third wife was the daughter of Ambrose Upton, Canon of Christchurch. She was likewise a widow. Her

[1] *Passim.* See Macaulay's "England," vol. ii. p. 581, citing some books in the note; but his is not the most probable account.

[2] Wood's "Athenæ," p. 65; Lyson's "London," vol. ii. p. 234.

[3] Lyson, vol. ii. p. 230.

[4] If this be so, "Collectanea Topographica et Genealogica" cannot be right. Vol. vii. p. 163 n. c. Sir Francis Privian married Margaret, daughter of Lord Gorges, and relict of Sir Thomas Fleming. After the death of Sir Francis, 24th of June, 1666, she remarried Sir John Maynard, knight, Serjeant-at-Law. . . . . Pepys, in his "Diary," vol. iv. p. 407, mentions this lady's death as the cause of a postponement of legal business; March 30, 1668; but he means Maynard's second wife, Jane, not Lady Privian.

husband was Sir Charles Vermuden. She survived the Lord Commissioner for many years, and again left her widowhood for Henry, the fifth Earl of Suffolk, whom she buried in 1709, he having died at Gunnersbury on the 10th of December.[1] This lady had considerable property,[2] and reserved a power in her settlement to devise her estates.[3] But, after executing the power, she left an annuity of £40 a year to Merchant Taylors' School.[4]

Sir John's only son and heir was Joseph Maynard, Esq. He died without male issue, leaving two daughters, his co-heiresses.[5] According to some accounts, Sir John had a daughter, Honora, who married Edward Noseworthy, Esq., of Devon.[6] This gentleman was, probably, in difficulties, for he mortgaged the Manor of Edmerston in that county, and his father-in-law, no doubt in kindness, foreclosed the obligation, and thus became possessor of the property.[7] Another daughter, Johanna, was married August 2, 1666, to John Lee.[8] One of his grand-daughters, a co-heiress, married Sir Henry Hobart, Bart.[9] Another was the wife of Sir William Rawlinson, who sat as

[1] Collins's "Peerage," vol. iii. p. 147.

[2] In Dimchurch, Joychurch, and Medley.—*Gentleman's Magazine*, vol. lix. p. 585 n.

[3] "Gentleman's Magazine," as above. [4] *Ibid.*

[5] Lipscombe's "Bucks," vol. iv. p. 108. Mr. Foss says that the Serjeant had two sons, John and Joseph, and several other children.—Foss, vol. vii. p. 334.

[6] Lyson's "Environs of London," vol. ii. p. 230 n.

[7] Lyson's "Magn. Brit." vol. vi. pt. 2, p. 344.

[8] *Id.* vol. iii. p. 325. [9] See *Post*.

Lord Commissioner of the Great Seal, with his father-in-law. She was buried at Ealing, her monument being in the east end of the chancel.[1]

As the Serjeant was wise in politics and law, so he knew her to care for his private interests. He seems to have lived for some time at his father's house at Tavistock. For Sir William Pole, in his collections towards a description of Devon,[2] and who died in 1635, says under the head of "Tavistoke:" "Th' abbey[3] howse ys now the dwelling of —— Maynard, Esq., lerned in the lawes, w^ch^ he holdeth by lease, granted by Edward, Erle of Bedford."[4] He had, nevertheless, a manor in Devonshire, Beere-Ferrers in Roweburgh Hundred. After several conveyances, "the Manor of Beere by agreement came wholly unto Charles, Lord Mountjoy, Erle of Devonshire, w^ch^ conveyed it unto Mountjoy, Erle of Newport, who hath since sold it to Serjeant Maynhard."[5]

We now come to Clifton, or Clifton Reynes, so called from the Reynes family in Bucks. Clifton came into the Lowe family. The ancestor was Esquire of the Body and Captain of the Guard to Henry VIII., and the estate came by the female line of Reynes into the possession of the new lord. After some time, the manor and estate fell into unthrifty and unfortunate hands. James Lowe is handed down to us as one of

[1] Lyson's "London," vol. ii. p. 230.

[2] In 1791 the autograph was in the possession of Sir William De la Pole, Bart., of Shute, &c., in Devonshire.

[3] For "The Abbey." So Tennyson, in the "Sick Farmer:" "Th' ale."

[4] Pole's "Collections," p. 340. [5] *Id.* p. 336.

expensive habits, as having eight children, and engaged in lawsuits to obtain property which he imagined to have been his wife's, and to which he would, for his life at all events, have been entitled. In ten years from the passing away of his inheritance, he lost his wife and two children, who were buried in 1683 in the vault of the north chancel at Clifton. On the 21st of February, 1673,[1] his property was conveyed from him for the sum of £13,500, to Sir John Maynard, Knight, Serjeant-at-Law. At one swoop, the Manor and Lordship of Clifton, the advowson, commons, woodlands, corn mills and much land, meadow and arable, were separated from him for ever.[2] Thus the prosperous advocate in the zenith of his fame displayed his forensic success by acquiring a magnificent manor, for, it is to be hoped, a sufficient and liberal consideration. For, according to Roger North,[3] he was near enough sometimes. One afternoon, before the Judge sat at *nisi prius*, "A poor, half-starved old woman, who sold sweetmeats to schoolboys and footmen, at the end of the bar, desired the Serjeant to pay her two shillings, for keeping his hat two terms. She spoke two or three times, and he took no notice of her; and then I told the Serjeant, *the poor woman wanted her money, and*

[1] There was another indenture of a similar character, dated April 15, but it seems that some of the property was in "Newton Blossomville," as well as "Clifton," wherein it became prudent to insert Newton.—Lipscombe, *infra*.

[2] Lipscombe's "Bucks," vol. iv. p. 106. And as to the fate of Clifton, *Id.* p. 108; Lyson's "Magna Britannia," vol. i. p. 544.

[3] North's "Life of the Lord Keeper," p. 115.

I thought he would do well to pay her. The Serjeant fumbled a little, and then said to me: '*Lend me a shilling.*' '*Ay, with all my heart,*' quoth I, '*to pay the poor woman.*' He took it, and gave it her, but she asked for another. I said: '*I would lend him that also, to pay the woman.*' 'No; don't boy' (said he) 'for I never intend to pay you this.' And he was as good as his word." North's opinion was, that he meant to punish him for meddling, "having been, as they say, a wonderful charitable man." But North was not a very impartial judge of the Serjeant's actions, for he was a Royalist, and brother to Lord Guilford, and, doubtless, looked upon Sir John in the light of a distinguished "Trimmer." However, Maynard certainly took advantage of the custom of the times to get any spoil from the "malignants" which he could secure with any colour. And thus Sir John Banks's books fell into his hands.[1]

But we have not quite done with the enumeration of his estates. The Manor and Advowson of Hardmead, in Buckinghamshire, fell into the hands of the Catesby family. Thomas Catesby had the custody of the three Hundreds of Newport in the time of Charles II.[2] Hardmead belonged to a Thomas Catesby,

[1] Chief Justice of the Common Pleas, October 22, 1645. "Orders for Colonel Welden to be Governor of Plymouth, for giving Sir John Banks's books to Mr. Maynard, and the books [of] Mr. Vaughan, of Lincoln's Inn, to Mr. Recorder Glyn."—Whitelocke's *Memorials*, vol i. p. 177.

[2] Lipscombe's "Bucks," vol. iv. p. 2. Together with the king's rent, called "Certainty money, issuing out of the several towns or villages therein."—*Ib.*

and he died seised of it about 1577. "Another Thomas Catesby, *supposed*[1] son of Francis, and grandson of the former Thomas, about 1670 sold these possessions to Sir John Maynard, Knight, Serjeant-at-Law in the time of Cromwell and Charles II., and passed, by the marriage of his grand-daughter, daughter of John Maynard, Esq., to Sir Henry Hobart, the fourth Baronet." The Hobart family possessed both Clifton and Hardmead, but the Earls of Buckinghamshire[2] in 1756 and 1792 transferred each of them to others.[3] But Sir John also acquired another property near Beeralston, Devon. For Sir Henry Hobart got by his marriage with Maynard's grand-daughter "an estate in Dorsetshire,[4] which occasioned an increase to the descendants of the Serjeant of their parliamentary influence at Beer-Alston.[5] This was Beer-Ferrers. And he gave lands at his decease producing a rent of £20 per annum, for the education of poor children there, besides a house and garden of nearly the same value for the master's residence.[6] But his gifts were still more extensive. He got possession of the advowson of Tavistock, his native place, and he made over the tithes formerly appropri-

[1] In italics in Lipscombe.

[2] Hobart is the family name.

[3] Lipscombe's "Bucks," vol. iv. pp. 108, 181; Lyson's "Magna Britannia," vol. i. p. 577.

[4] This must be a mistake, for Devonshire, inasmuch as Berealston is on the borders of Cornwall. The Serjeant sat for Beeralston in 1661. Willis's "Not. Parl," vol. iii. p. 288.

[5] *Id.* vol. ii. p. 274.

[6] Lyson's "Magn. Brit.," Devon, vol. vi. pt. 2. p. 41.

ated to the monastery there, to the incumbent, as a benefaction.[1] And he gave a tenement in the parish of Harberton for a Grammar School at Totness.[2] He even got into Cornwall. The manor of Lanrake, called by Tonkin the best in the county, was his, and his heiress brought it to the Hobarts. The Earl of Buckinghamshire gave it, with his daughter, to Lord Mount Edgcumbe.[3] He also possessed the rectorial estate of the Church of St. Uny Laland, the mother church of St. Ives, in Penwith hundred,[4] and the manor of Elerkey in Veryan.[5] Sir John afterwards, as we have seen, went to live at Ealing, where, at Gunnersbury, he built a house. He also acquired the *inheritance* of "Gonyldsbury," the birth-place of Chief Justice Frowyck, and afterwards the house of Judge Spelman, grandfather of the famous antiquary. "Gunnersbury, well scytuate," according to Norden, "for wood, ayre, and water, was a convenient home for Sir John." His third wife died there, Countess Dowager of Suffolk, but one of his nieces married Sir John Hobart, afterwards Lord Hobart, who sold it in 1740.[6]

In the early days of our legal history it was common for a lawyer of great practice to collect his notes, and, at a subsequent period, often after he had ascended the

[1] Lyson's "Magn. Brit.," Devon, p. 248.

[2] *Id.* p. 525; and see p. 596.

[3] Lyson's "Magn. Brit.," vol. iii. p. 176.

[4] *Id.* p. 169.

[5] *Id.* p. 319.

[6] Lyson's "Environs of London," vol. ii. p. 226. It was bought at length for the Princess Amelia, whose death so much aggravated her father's malady. —*Ibid.*

Bench, to ask for a licence, or "*imprimatur*," from the judges to publish them. In more modern days the custom underwent a change, and notes of this kind were brought out by younger men during their attendance in Westminster Hall. And instead of being their own reports of cases in which they were personally engaged, they were accounts from term to term of the various decisions of the Courts . . . . Sir James Burrow, the Master of the Crown Office, may be cited as the connecting link between the old and new systems.

So great a lawyer as was Maynard, it would appear strange if he should not have left some written testimony of his industry and knowledge for the benefit of posterity.

The "Reports," as they are called, of Sir John, are much celebrated. But for those who have not the key it would be difficult to find them. There is, however, a publication, known by the name of the "Year Books," in eleven volumes, folio, which, although written in black letter, contains, notwithstanding, a very interesting collection. In the first volume, at the beginning, these famous notes appear. They are reports of cases argued and adjudged in the time of King Edward II., accompanied by some memoranda in the Exchequer in King Edward I.'s time. "Solonq: les ancient manuscripts ore remanent en les maines de Sir Jehan Maynard." The original author, according to Selden, was Richard de Winchedon.

The date of its "*imprimatur*" was 1678. It came out also in that year, and there is little doubt but that Sir John wrote the Preface.[1]

This was his chief labour in literature. He took an active part against Laud and Strafford, and several discourses of his concerning the management of the evidence against those eminent persons, under his name, are extant. Some other pamphlets are—"Speech at the Committee at Guildhall, in London, January 6, 1641, Concerning the Breaches and Priviledges of Parliament.—*London*, 1642, in one sheet, quarto." "London's Liberty; or, a Learned Argument of Law and Reason before the Lord Mayor and Court of Aldermen at the Guildhall," An. 1650.—*London*, 1682, folio."[2] But he was so devoted to the "Year Books" as "to carry one of them in his coach to divert his travel, and he said he chose it before any comedy."[3] He quite supported the custom of putting cases in the old cloister walks of the Middle Temple, and he used to call the law "*Ars Bablativa.*"[4]

Some of his opinions will be found in the "Harleian Collections."[5]

The following extraordinary case was found amongst the papers of Serjeant Maynard . . . . Whether he

[1] See the learning upon the subject, with which we will not trouble the reader together with any doubts which have existed as to the author, in "The Librarian," by Savage. Vol. i. p. 281.

[2] Wood's "Athenæ," vol. ii. p. 650.

[3] North's "Life of Guilford," p. 19.

[4] *Ibid.*

[5] MSS. No. 150, 82 (e).

compiled it can hardly now be known, and it certainly did not occur on his circuit.

"Johan Norkott, wife of Arthur Norkott, being murthered, the question was, how she came by her death? The coroner's inquest, on view of the body, and depositions of Mary Norkott, John Okeman, and Agnes, his wife, inclined to find Johan Norkott *felon de se;* for they informed the coroner and jury that she was found dead in her bed, the knife sticking on the floor, and her throat cut. That the night before, she went to bed with her child, her husband being absent, and that no other person, after such time as she was gone to bed, came into the house, the examinants lying in the outer room, and they must needs have seen or known if any stranger had come in. Whereupon the jury gave up to the coroner their verdict. That she was *felon de se;* but afterwards, upon rumour among the neighbourhood, and their observation of divers circumstances, which manifested that she did not, nor according to those circumstances could possibly murther herself, thereupon the jury, whose verdict was not yet drawn into form by the coroner, desired the coroner, that the body which was buried might be taken up out of the grave, which the coroner assented to; and, thirty days after her death, she was taken up, in the presence of the jury and a great number of the people. Whereupon the jury chang'd their verdict. The persons try'd at Hertford Assizes were acquitted; but so much against the evidence that Judge Harvey

let fall his opinion, that it were better an appeal were brought, than so foul a murther escape unpunished. And Pascha, 4 Car., they were try'd on the appeal, which was brought by the young child, against his father, grandmother, and aunt, and her husband Okeman. And because the evidence was so strange, I took exact and particular notice, and it was as follows, viz.—After the matter above-mentioned related, an ancient and grave person, minister to the parish where the fact was committed (being sworn to give evidence, according to custom,) deposed, that the body being taken up out of the grave thirty days after the party's death, and lying on the grass, and the four defendants present, they were required, each of them, to touch the dead body. Okeman's wife fell upon her knees, and prayed God to shew a token of her innocency, or to some such purpose; her very words I have forgot. The appellees did touch the dead body, whereupon the brow of the dead, which was before a livid and carrion colour (that was the verbal expression in *terminis*[1] of the witness), began to have a dew, or gentle sweat, arise on it, which increaséd by degrees, till the sweat ran down in drops on the face; the brow turned and changed to a lively and fresh colour, and the dead opened one of her eyes, and shut it again; and this opening the eye was done three several times. She likewise thrust out the ring, or marriage finger, three

[1] Terms.

times, and pulled it in again, and the finger dropped blood from it on the grass.

"Sir Nich. Hide, Chief Justice, seeming to doubt the evidence, asked the witness; Who saw this besides you? Witness: I cannot swear what others saw; but, My Lord (said he), I do believe the whole company saw it; and if it had been thought a doubt, proof would have been made of it, and many would have attested with me.

"Then the witness, observing some admiration in the auditors, he spake farther:—My Lord, I am minister of the parish, and have long known all parties, but never had any occasion of displeasure against any of them, nor had to with them, or they with me, but, as I was minister, the thing was wonderful to me; but I have no interest in the matter, but as called upon to testify the truth, that I have done.

"This witness was a very reverend person; as I guessed was about seventy years of age; his testimony was delivered gravely and temperately, but to the great admiration of the auditory. Whereupon, applying himself to the Chief Justice, he said:—

"My Lord, my brother, here present, is minister of the next parish adjacent, and I am sure saw all done as I have affirmed. Therefore that person was also sworn to give evidence, and did depose in every point; viz., the sweating of the brow, the change of its colour, opening of the eye, and the thrice motion of the finger, and drawing it in again; only the first witness added,

that he himself dipped his finger in the blood which came from the dead body to examine it, and he sware he believed it was blood.

"I conferred afterwards with Sir Edmund Powell, Barrister-at-Law, and others, who all concurr'd in the observation. For myself, if I were upon oath, I can depose that these depositions, especially of the first witness, are truly reported in substance.

"Then other evidence was given against the prisoners; viz., the grandmother of the plaintiff, and against Okeman and his wife, that they confessed they lay in the next room to the dead person that night, and that none came into the house till they found her dead the next morning; therefore, if she did not murther herself, they must be the murtherers.

"To that end further proof was made.

"First,—That she lay in a compos'd manner in her bed, the bedclothes nothing at all disturb'd, and her child by her in bed.

"Secondly,—Her throat cut from ear to ear, and her neck broken; and if she first cut her throat, she could not break her neck in the bed, nor contra.

"Thirdly,—There was no blood in the bed, saving there was a tincture of blood on the bolster, whereon her head lay; but no substance of blood at all.

"Fourthly,—From the bed's head there was a stream of blood on the floor, which run along, till it ponded in the bendings of the floor to a very great quantity; and there was also another stream of blood

on the floor at the bed's feet, which ponded also on the floor to another great quantity; but no continuance or communication of blood of either of these two places, from one to the other, neither upon the bed; so that she bled in two places, severally. And it was deposed, turning up the matt of the bed, there were clotts of congealed blood in the straw of the matt underneath.

"Fifthly,—The bloody knife was found in the morning sticking in the floor a good distance from the bed; but the point of the knife as it stuck was towards the bed, and the haft from the bed.

"Lastly,—There was a print of the thumb and fore finger of a left hand.

"Sir Nich. Hide, Chief Justice, said to the witness: How can you know the print of a left hand from the print of a right hand in such a case?

"Witness: My Lord, it is hard to describe; but if it please that honourable judge to put his left hand upon your left hand, you cannot possibly place your right hand in the same posture. Which being done, and appearing so, the defendants had time to make their defence, but gave no evidence to any purpose. The jury departed from the Bar, and, returning, acquitted Okeman, and found the other three guilty; who, being severally demanded what they could say why the judgement should not be pronounced, said nothing; but each of them said, I did not do it; I did not do it.

"Judgement was given, and the grandmother and

the husband executed; but the aunt had the privilege to be spared execution, being with child.

"I inquired if they confess'd anything at their execution; but did not, as I was told."[1]

Macaulay, when mentioning the stout and celebrated resistance which was made to a Popish standing army, gives us Sir John's character at this time.

"Sir John Maynard, the most learned lawyer of his time, took part in the debate. He was now more than eighty years old, and could well remember the political contests of the reign of James I. He had sate in the Long Parliament, and had taken part with the Roundheads, but had always been for lenient counsels, and had laboured to bring about a general reconciliation. His abilities, which age had not impaired, and his professional knowledge, which had long overawed all Westminster Hall, commanded the ear of the House of Commons."[2]

Bishop Warburton thus delineates the characters of Maynard and Whitelocke in contrast:—"They were both lawyers of family, and in the Long Parliament, both of the Presbyterian faction; both learned and eminent in their profession; moderate, sage, and steady. So far they agreed. Thus they differed; Maynard had strong parts, with a serious modesty.

[1] This very odd case was communicated by Dr. Rawlinson, who sent it as a curiosity worth preserving.—*Works of the Learned*, August, 1739. A periodical.

[2] "History of England," vol. ii. p. 23.

Whitelocke was weak and vain; and, by these defects only, more self-interested. A sense of honour made Maynard stick to the Presbyterian faction, and to fall *with* them; but, as he had much phlegm and caution, not, like Hollis and Stapleton, to fall *for* them. So that he was never marked out by the Independents for their first sacrifices. On the contrary, Whitelocke forsook his party in distress, but, as he had the other's moderation, it was by slow and gentle degrees; and so, as it happened, decently. Maynard, by adhering steadily, but not violently, to the party he set out with, was reverenced by all; and had he not been more intent on the affairs of his profession than on public business, might have become considerable by station. He went through the whole reigns of Charles II. and James II. with the same steady pace, and the same adherence to his party; but, by his party, I rather mean Presbytery for the sake of civil liberty, than to civil liberty for the sake of Presbytery."[1]

This was not a man of whom it could be said, as of some of his contemporaries, that he had no character for posterity. North, an enemy, rather than a friend, pronounces thus concerning him:—"This great man, as I must call him, since his natural and acquired abilities, and the immense gains he had by practice, justly entitle his name to that epithet, was an anti-restauration lawyer."[2]

[1] Warburton's "Letters to Hurd," p. 211.
[2] "Life of Guilford," p. 115.

A great man may be said to be one who is lifted by his attainments or actions above those of his day, especially when the voice of the intellectual, the educated, and the experienced yield assent.

Sir John Maynard entered into life with every kindly feeling. He clung, amidst trouble, to his *Alma Mater*, made himself a fast friend with opposite spirits, which forgot him not when the time for doing him great service arrived. He proclaimed himself an early and inflexible ally to liberty; he denounced the faithless friends, as he believed them to be, of his monarch, yet, with the fatal designs against his sovereign, he would hold no counsel. He retired with disgust till the deed, which he could not avert, had been accomplished. He even dared to warn his powerful party against the extreme measures into which they were drifting. . . .

During all this and very far subsequent time, he was in every case of importance as an advocate. The Commonwealth was now established. He accepted legal rank from the Protector, but not to surrender his independence as an English lawyer. He went to the Tower a threatened and punished person, yet wisely asked forgiveness in the face of a hopeless and idle imprisonment. Hale, the great judicial religionist of his day, had likewise no scruple in holding office under the Protector, although, like Maynard, he met with a lion in his path, and threw up his commission. . . . .

As a debater in Parliament, the Serjeant's love of

freedom would constantly break forth. He was for ever challenging the supremacy of the law against the despotism of the Commons. . . . . He smoothed by his wisdom the return of Charles, and when James was compelled to leave Whitehall, he became a member of the Convention, sanctioning and settling the constitutional procedure, which placed William and Mary firmly on the throne. He was deemed by his new sovereign the fittest person to receive the highest lay honour in the realm, and, although his age could only promise a short tenure of the Great Seal, he was able well to perform his duties, not only in the Court of Chancery, but also in Parliament.[1] It is apparently just to award to such a counsellor, politician, senator, and Judge, the attribute of a great man.

"Per varios casus, per tot discrimina rerum."

[1] The Lords Commissioners could then sit in Parliament, and it may be that they might sit, if so appointed, at this day.

JOHN ROW.

Serjeant-at-Law, 1511.

THIS eminent Serjeant was born at Totness. "A sweet and pleasant town," as Prince says, "situate on the ascent of a hill, lying east and west near a mile in length, upon the west side of the river Dart."[1] His father was William Row, of Totness, of "quality and ancient gentry," as it would appear from a coat of arms belonging to his name in one of the windows of the church there.[2]

Prince, his scanty biographer, only conjectures that he belonged to one of the Temples "to which our modern gentry mostly repair." Inasmuch as he was a Serjeant, it is inferred that he was at one time a reader, although not so mentioned by Dugdale.[3] He had a writ to take upon himself the coif in 1511, the second year of Henry the Eighth, when John New-

[1] "Worthies," ed. 1810, p. 720.

[2] *Ibid.* He was the son and heir of Richard Rowe, Temp. Ed. IV., whose wife was the daughter of . . . . Vivian, Temp. Ed. IV.; Tuckett's "Devonshire Pedigrees," pp. 175, 176; citing Harl. MSS., 1080. . . .

[3] There may be found a reason for this. Dugdale's "Catalogue of Inner Temple readers" only begins in 22 H. 7, and of "Middle Temple readers" in 17 H. 7. Row might have read before these dates.

degate, Anthony Fitzherbert,[1] and six more were called with him.[2] His great practice is assumed by Prince, by reason of the considerable estate which he left to his posterity.[3]

"Sorry I am," said the author of the "Worthies," "I can't meet with fuller memoirs, relating to the life and actions of this eminent lawyer.[4]

Serjeant Row married Agnes, the eldest daughter of William Barnhouse, Esq., of Kingston, in the parish of Staverton, four miles to the north-east of Totness.[5] It seems that he lived to a considerable age. He was a witness to a deed in the eighteenth year of Henry the Eighth, sixteen years after he took his degree as a Serjeant. He died at Kingston, and was buried in Staverton Church, or, it may have been, in the church yard, by reason of this inscription, on a plate of brass on the outside wall of the chancel of the church.

"Hic sepelitur corpus Johannis Row,
Filii et Hæredis Johannis Row,
Servientis ad legem."
Anno Domini 1592, æt. 82, et amplius.[6]

A John Row appears to have sat for Canterbury, in 21 Jac. I. [1613.][7]

[1] The celebrated Fitzherbert; one of the few Judges who had the order of the Bath.

[2] Dugdale's "Chr. Ser." p. 79.

[3] Prince, p. 711.

[4] Prince, *Ibid.*

[5] *Ibid.*

[6] Prince, p. 711, where some further information respecting the family is given.

[7] Willis's "Not. Parl." vol. iii. p. 140.

WILLIAM BENDLOES, OR BENDELOWS, OR BENLOWES.

Serjeant-at-Law, 1554.

OLD BENDLOES, as this ancient lawyer of the days of Mary and Elizabeth was called, was one of those venerable ancients who were "clothed in a long, priest-like robe, with a cape about the shoulders furred with lambskin, and thereupon a hood, with two labells, such as doctors of the law use to wear in certain universities, with a white coif of silk."[1] He was of a very grave demeanour, of respectful mien towards the Bench, and upon occasion, a reverend Judge of Assize. He demands our notice as a remarkable Serjeant of antiquity.

The contrast between the manners peculiar to the days of "old Bendloes" and our present Serjeants would be rather amusing. William Bendloes, of whose life in private we can gather little, must have been of a Shropshire family, probably of Shrewsbury, since he is mentioned as a contributor to Saint Mary's Church in that town.[2]

[1] Dugdale, "Orig." p. 136.

[2] Shrewsbury. Owen and Blakeway, vol. ii. p. 356.

He was, without question, a most able and eminent lawyer. His arms in the south window of Serjeant's Inn bear testimony to the legend concerning him. His shield was; "Quarterly per fess indented, gules and or on a bend of the second, a fleur de lis between two martlets azure." Impaling, "or, two bars gules, each charged with three trefoils azure; in chief, a greyhound courant, sable."[1]

William Bendlowes was born about 1507 or 1508. He was a son of Christopher Bendlowes, Esq., of Great Bardfield, Essex. His mother was daughter of John Ufford, Esq. The son was educated at St. John's College, Cambridge, but left the university without a degree, and was called to the bar in due time by the Society of Lincoln's Inn. He was autumn reader in 1548, but there was no lecture, by reason of the pestilence. He was, however, again the autumn reader of 1549; and in 1555 double autumn reader of his inn.[2]

In 1554 or 1555 he was made a Serjeant,[3] and kept his feast with the other Serjeants in the Inner Temple Hall, on the 16th of October in that year.[4]

His merits must have been considerable, for his was the only escutcheon in the Inn to which a history or legend was attached. He there appears as "William

[1] Dugdale's "Origines," p. 331.
[2] Cooper's "Athen. Cant." vol. i. p. 495.
[3] Dugdale's "Chr. Series," p. 89.
[4] Cooper's "Athen. Cant." vol. i. p. 495.

Bendlowes, Serjeant-at-Law, for many years, amongst others, eminent.[1] He survived and flourished during the last year of the reign of Queen Mary and the first of Elizabeth. He made a collection of the law cases of his time, which, to this day, are authority amongst juris-consults, and are sought for more than common. A man learned, honest, pious. He bequeathed to his Inn fifty pounds, which William his son gave on the 20th of May, 1596."[2] The Latin words, "*Superfuit et claruit*" refer to the regal, not the natural year. For example, when George the Third ascended the throne, upon the 15th October, 1760, that day was included in the last year of George the Second, and the first of his then present Majesty. Thus it was upon the death of Mary.

Bendloes, therefore, survived and flourished because it was not deemed necessary to renew his patent.[3] He was, in fact, the only Serjeant, merely on account of the delay in settling Queen Elizabeth's first Serjeants, some of the Roman Catholic Serjeants being dispensed with. A more remarkable story is told of him some few years later. In the tenth year of the Queen, there was but one Serjeant at the Common Pleas bar for a whole term together, and that was Serjeant Bendloes, and he had but little business in that term.[4]

[1] *Eximius.* [2] Dugdale's "Orig." p. 331.

[3] His patent remained to him: it was not surrendered. This was a high compliment.

[4] The "Modern Reports," vol. iii. p. xiv. The beginning of this Preface is curious:—

"It certainly does appear," said Mr. Austin, in arguing the case of the Serjeants in 1839, "that there was one disastrous term,—that there was a term in which there was no business to be done, and that Serjeant Bendloes was the only Serjeant who thought it necessary to go down to the Court,—I hope with no improper motives. Peradventure, there might have been some motive with half-a-guinea on the back of it stirring, and he went down to the bar to do what little business there might be upon that occasion."[1] This allusion might have been spared, for it is not at all uncommon to find a note from a great lawyer, to the effect that he did not come into Court this term, on account of the paucity of business. It appears that the Serjeant sat in more than one Parliament. In the first year of Queen Mary, we find him sitting for Portpigham, or Westlow, at the Parliament summoned at Oxford;[2] and, in the same year, for Helston at Westminster; again in the second Westminster Parliament for Penryn; and once more in 1554 (1 and 2 Philip and Mary) for Dunheved, Cornwall.[3]

In 1576 he became one of the "Governors" of Lin-

"Gentlemen,

"All human laws are natural or civil."

This puts us in mind of a humorous introduction to death, which we have somewhere read:—

"Death is common to all.
It occurs but once."

[1] Manning's "Serviens ad Legem," p. 167.

[2] Willis, "Not. Parl." vol. ii. p. 92. [3] *Id.* vol. iii. p. 26.

coln's Inn, and served the same office for several succeeding years.[1]

In 1582 Edmund Anderson was made a Serjeant and Chief Justice of the Common Pleas. Upon his investiture in May, "Father Benloos, because he was auncient, did put a short case."[2]

In 1584, on the 19th of November, the old Serjeant died, and was buried at Great Bardfield. "Under the south window of the chancel of that church is a defaced brass, with his effigy, and that of Eleanor, his wife."[3] There is a long Latin inscription, which will be found in Cooper's "Athenæ." At the end is this notice:—"Obiit mortem 19 die Novembris, 1584, anno que regni Elizabethæ reginæ 27."[4] Considering that he was reader of his Inn in 1548, and that he was for nearly thirty years a Serjeant, he must have attained old age. He steadily held to the Roman faith, and he must have conducted himself with no small share of prudence, for, whilst Queen Elizabeth excluded several Serjeants of that persuasion from her call (Plowden amongst others) Bendloes was retained. His wife was Eleanor, daughter of Sir Edward Palmer, of Angmering, Sussex, the widow of John Berners, Esq., by whom he had issue William Bendlowes, Esq., a bencher of Lincoln's Inn, who died in 1613.[5]

[1] Cooper's "Athen. Cantabr.," vol. i. p. 496. [2] *Ibid.*

[3] *Ibid.* [4] *Ibid.*

[5] Cooper's "Athen. Cantabr.," vol. i. p. 496. "This Eleanor is said to have been his second wife. If that were really the case, we are altogether unable to specify the name of his first."—*Ibid.*

He contributed in his lifetime £20 towards the erection of the chapel of Corpus.[1]

His will was dated 17th November, 1584, therefore only two days before his death. Amongst other bequests was one of "doles and herrings" to the poor of Great Bardfield every Sunday, and at particular festivals, together with small annual sums for amending the drinking and repast of that town upon Rogation Tuesday for evermore, likewise for the repairs of the parish church and of the highways.[2] He was, certainly, not a bigoted Catholic. Yet Strype tells us, that he was once placed in a Commission against heretics,[3] although it is not added that he acted. There is a portrait of him in St. John's College.[4]

His patrimony was by no means inconsiderable, and he appears to have greatly increased it. He had the impropriate rectory of Great Bardfield, which had belonged to the church of Stoke, near Clare. He obtained in 3 and 4 Philip and Mary a license from the Crown under which the impropriation was dissolved, and the vicarage turned into a rectory. "The great tithes were leased for 500 years at 20 marks per annum, half of which rent was to be paid to the rector, and with the other half the Serjeant endowed a

[1] *Ibid.* A full account of his gifts and endowments will be found in Cooper.—See above.

[2] Cooper, as above.

[3] "Memorials," vol. iii. p. 340.

[4] Cooper, as above.

chantry, dedicated to the Holy Trinity, in the church of Great Bardfield, wherein mass was to be celebrated for the souls of the King and Queen, of his father and mother, of himself and his wife, and of his friends, benefactors, and all the faithful deceased."[1] Upon Elizabeth's accession, the chantry was dissolved.

"Sir Robert Bindloss, of Berrick Hall, in the Parish of Warton, in the County of Lancaster, Bar^t., is lineally descended from William Bindloss, a famous and learned lawyer of Lincoln's Inn, and one of Her Majesty's Serjeants-at-Law in the reign of Queen Mary, which William left a great estate to his posterity."[2]

Like to the old Serjeants, Serjeant Bendloes was careful to record the law-opinions of the Judges. They are printed in French.[3] And here he is changed, as an author, into "New Bendloe."[4] William Dalison, a Judge in the reign of Elizabeth, contributed his share of the labour in the book called Benloes and Dalison. But Mr. Bridgman remarks, that the Reports of "Benloe and Dalison" are erroneously cited as "New Benloe," which belongs to the other book alone.[5] And thus, with but slender information, we take leave of "Old Benloes."

There is a MS. copy in the Cambridge Public Library of these Reports.[6]

[1] Cooper's "Athen. Cantabr.," vol. i. p. 496.

[2] Phillips's "Grandeur of the Law," p. 59. But he was never a Queen's Serjeant.

[3] Anno 1661.

[4] Bridgman's "Legal Bibliography," p. 17.

[5] *Id.* p. 18. See also Cooper's "Athen. Cantabr.," vol. i. p. 497.

[6] Dyer's "University of Cambridge," vol. i. p. 573.

24291

EDMUND PLOWDEN.

Serjeant-at-Law, 1558.

[The Author desires to acknowledge the aid he has received in collecting memorials of this great lawyer from the MSS. of William Plowden, Esq., of Plowden Hall, Salop, and of Colonel Plowden, of Dudley Lodge, Kingston, Surrey.]

At no period of life, whilst youth and strength still favour us, is success at the bar, amongst other professions, impossible. When a lawyer is found without much talent, with but moderate diligence, and without interest, his prospects, even if he should enrol himself a student at the earliest age, can hardly hope for success. But when we see a man gifted with industry and perseverance, and with the talent sufficient to obtain advancement, or, at all events, to arrest failure, long and wide experience abounds in proof that an advocate, though no longer youthful, may ascend to the highest rank of his order.

Edmund Plowden, at thirty-five years of age, was a physician; before he was forty-five, he was a Serjeant-

at-Law; and, in the ordinary course of promotion, would have been a Judge, had not the Roman religion (which he professed and adhered to till death) presented an inflexible obstacle.[1] That considerable man and highly-educated advocate, afterwards Mr. Justice Shee, must have shared the same fate had he lived in the days of Plowden, and like Plowden clung to his creed. Plowden's career was remarkable, by reason of his studying law and physic at the same time. He spent three years in the study of arts, philosophy, and medicine at Cambridge, and soon afterwards coming to Oxford, he spent four years more in the same studies there; and in November, 1552, he was admitted to practise "chirurgery and physic in that University." It is curious that when one of his contemporaries[2] changed his course from law to physic, Plowden left the laws of Esculapius, to devote himself to the Common Law of England.[3] It has been objected, that if he was entered at the Temple in the reign of Henry the Eighth, he could not have been a physician in 1552.[4] The circumstance is rare, but Wood's testimony is positive.

Whether he was thwarted in his early age, or to

[1] His praise of Sir Anthony Browne (Chief Justice of the Common Pleas at the death of Mary, but continued only as a *Judge* by Elizabeth) shows his attachment to the professors of his own religion. Wood's "Athen. Ox." Bliss, vol. i. p. 3. A Judge of profound learning and great eloquence. The "Law Reports" of Serjeant Plowden, p. 306. See some curious Latin verses in honour of Sir Anthony Browne.—*Id.* p. 376 (a.)

[2] Dr. Phaer. [3] Wood's "Athen." Bliss, vol. i. p. 503.

[4] "Penny Cyclopædia," vol. xviii. title Plowden.

which profession in particular his youthful aspirations tended, we are not informed. Notwithstanding his labours in a vocation the reverse of legal studies, he tells us, that he "first entered upon the study of the Law in the twentieth year of his age, and in the 30th year of the reign of the late King Henry the Eighth, of famous memory."[1]

He was of an ancient and genteel family in Shropshire, and was born at Plowden, in 1517.[2] His father's name was Humphry, and his mother was the daughter of John Sturey, of Ross Hall,[3] in that County. "When the ancestors of the family were first seated at Plowden is a matter of doubt, but it was at a very early period. In 1194 Roger de Plowden is said to have been at the Siege of Acre with Richard I., and there to have acquired the fleur-de-lis in the arms. The name occurs upon all the county records, from the reign of Henry the Third. Edmund Plowden the lawyer, in the sixteenth century, was the great luminary of this family.[4] At the little chapel at Plowden Lydbury, there is a brass tablet to the memory

[1] Preface to his Reports, p. 111. Tanner says that this happened upon his leaving Cambridge.

[2] Fuller's "Worthies," Shropshire, p. 259. His great grandfather's name was Edmund, who was buried at Shiplake, Oxon; and the name of Edmund Plowden occurs in a faculty or vestry meeting at St. Mary's, Shrewsbury, 15th May, 29th Henry the Sixth, 1451. "History of Shrewsbury," vol. ii. p. 335. The learned lawyer himself, with Serjeant Bendloes and other eminent lawyers, were contributors to this church.—*Id.* p. 356.

[3] Rosall.

[4] Blakeway's "Sheriffs of Shropshire," p. 132. "Noble and Gentle Men of England," by Shirley, p. 197. Present Representative, 1867, William Henry Francis Plowden, Esq.

of Humphrey Plowden, the father, which was removed from the old church at Bishop's Castle, where he was buried. . . . . .

The following is a translation of the inscription upon it:—

"Here lie Humphrey Plowden, Esq., son of John Plowden, who was the son of Edmund Plowden: and Elizabeth his wife, daughter of John Sturry, of Down Rosall, Esq., and formerly wife of William Wollascott, and the said Humphrey died the 10th of March, 1557, and had issue: Edmund Plowden, who was a lawyer, and who resided at one time at Shiplake, in Oxfordshire, at another time at Burghfield, in Berkshire: John, who died without issue, and Edward, and seven daughters.[1]

The Middle Temple claims the great lawyer. He was entered of that Inn in 1538. He was so excessively studious in his youth (we have it by tradition) that in three years' space he went not once out of the Temple.[2] In the first year of Queen Mary, he was one of the counsel of the Marches.[3] In 1557 he became a reader of his Inn. He was autumn or summer reader, and, three years afterwards, he was Lent reader, being then a Serjeant, and accounted the oracle of the law,[4] and he was reader of New Inn.[5]

[1] It goes on and gives the names of their husbands and estates.—*M.S.*

[2] Wood's "Athenæ," Bliss, vol. i. p. 504, n. 4.

[3] Cooper's "Athenæ Cantabr," vol. ii. p. 501.

[4] Wood's "Athenæ," vol. i. p. 503.

[5] Cooper's "Athenæ Cantabr," vol. i. p. 501; October 27.

He had been called to the degree of the coif in the 6th year of Philip and Mary, with others of eminence.[1] The teste of his summons was on the 27th of October, 1558, but Queen Mary died in November, before the writ was returnable, so that, strictly speaking, he never was a Serjeant. For, at the return of the writ, the apprentice or barrister might excuse himself, or make default. "It must not, therefore, be assumed, as Dugdale and others appear to do, that because a party is stated to have received his writ of summons, he has necessarily become a Serjeant."[2]

During the rebuilding of the great hall, which was finished in 1572, although begun in 1562, he was a great advancer thereof,[3] and was constituted treasurer for that work.[4]

His arms, with the date 1576, will be found in one of the windows.[5]

In 1562, he was one of the Council for the Duchy of Lancaster.[6]

The cause of his advancement in the first instance, was the early and active patronage of Sir Francis

[1] Oct. 27.– Dugd. "Chr. Ser.," p. 91. Carus, Corbet, Thomas Gawdy, Gerrard, &c. "Suscipere asciti a die Pasch. in tres septimanos." Wynne's "Serjeant-at-Law," p. 48.

[2] Manning's "Serjeant-at-Law," p. 200; Cooper's "Athenæ Cantabr." vol. ii. p. 501. However, to deny him the title, would be to impeach the common titles given to Lord Coke, Lord Hale, Lord Holt, &c. Had there been a supersedeas, *the case would have been altered*, to use his own expression.

[3] Fuller's "Worthies," Shropshire, vol. ii. p. 259.

[4] Dugdale's "Orig. Jur." p. 188.

[5] Herbert's "Antiquities," p. 369.

[6] Cooper's "Athenæ Cantabr." vol. ii. p. 501.

Englefield, who entrusted him with the administration of his Shropshire estates, Up. Rossall, in St. Chad's, Shrewsbury, being a part. Sir Francis, upon the death of Queen Mary, became a voluntary exile, but left his nephew as a ward in the hands of Mr. Plowden.[1] "The lawyer," says Blakeway, "neither married him to one of his own daughters nor sold him to any one else, as the vexatious tyranny of the feudal system would have enabled him to do, and as it was, indeed, perpetually done, but made him a free gift of his wardships, which was a present of considerable value.[2]"

Mr. Blakeway supplies us with the contents of a MS. in the hands of Mr. Sandford concerning this transaction, which we give as he has transcribed.[3]

"Mr. John Englefield [brother to Sir Francis] died [April 1, 1567.] Francis Englefield, his sonne and heyr, being a child of the age of v. or vi. yeares; and fell in ward, by reason of a tenure in capite to the Quene. Mr. Plowden then beinge in London, having intelligence thereof in a morninge, very early upon the newes, presently rose out of bed, and went to the Court; he then being of counsell with William, the Earle of Pembroke, one of Her Majesty's Privie Counsell, which Earle had oftentimes before paide Mr. Plowden, to espie out some suit for the Quene worth five hundred pounds, and promised he would obtaine it sainge, he was indebted to Mr. Plowden in soe much.

[1] "Sheriffs of Shropshire," p. 222.
[2] *Ibid.*
[3] *Ibid.*

He came to the Earl, told him of the death of Mr. John Englefield, and of the wardship of his sonne; put him in mind of his promise; paid th' Erle to gett the wardship for him, in liew and recompence of his Lordship's promise, and Mr. Plowden's service to his Lordship. The Earle beinge, although unlerned, an excellent wise man, and knowinge the good will Mr. Plowden bare to the house of Englefield, answered: 'True, Mr. Plowden, my promise is so; but I meant it for your owne good, and not for the good or comodity of any other. If I obtain this suit for you, you will not benefitt yourselfe therby; but you will bestowe it upon the widowe, or at Sir Francis' direction: and therefore, I pray you,' said he, 'seek out some other thinge; this will not be to your profitt, and I therfore am loath to deale therein.' 'Sir,' said Mr. Plowden, 'I besech you leave that to my discression; I will accept it at your hands, instead of any good torne, and as a guift to me by your honor of £500;' the Earle seinge Mr. Plowden thus earnest, being a bedd, rose, went to Her Majestie, and afterward to the Master of the Wards, and fully obtained it for Mr. Plowden, and caused the same to be entred accordingly. Within halfe a hower after, and before Mr. Plowden departed the Court, the Lord Hunsdon cam to have optained it; but it was in vaine, for it was gone before, as aforesaid."

Mr. Plowden's gift of the wardship to Mr. Englefield, and his request in behalfe of his nephew, Humphrey Sandford, is thus related:—"About the pointe

of young Englefield's agge of xxi. yeres, Mrs. Englefield, Mr. Francis Fytton (her brother) and yonge Englefield, were att Shiplake (a seat of Mr. Plowden's, near Henley-upon-Thames.) After dynner, Mr. Plowden went into his newe parlor, called them into him; called also Mr. Perkyns, who then before had married his eldest daughter, ould Mr. Wollascott, younge Edmund Plowden, my cozen Humphrey Sandford, and myselfe;[1] and I knowe not whether any others. There beinge torned his talke to younge Mr. Englefield, and sayd thus in effecte: Mr. Englefield, you are my warde, and nowe come to your full adge: what say you and your friends to me for it? I did gett your wardshippe of my selfe, without the help of any of your friends. My old Lord of Pembroke did it att my request. . . . . And told in substance that which I have before rehersed . . . . . And adidd furthere, that he was not in any case soe beholdinge or bound to Sir Francis, or any of his frendes, that should move him to bestowe soe greate a benifitt uppon any of them: for,' sayd he, 'Mr. Englefield, your expectation is greate, and accordinge to that, I may nowe have for your wardshipe and marriage,[2] and my old Lord Mountague hath offered

[1] Andrew Blumden, of Burghfield, Berks, nephew to Mr. Plowden, and writer of this account.

[2] In a curious paper, drawn up by Sir John Neville in 1530 (Peck's "Desiderata Curiosa," lib. vii. p. 11) giving an account of his expenses in marrying his daughter to Sir Gervase Clifton, after the bill for the wedding clothes, which cost only £29 12s. 2d., while the dinner was £32 15s. 2d., besides £5 14s. 10d. worth of spices, he concludes:—"Item, for the maryage of my son-in-law, Sir Gervis Clifton, d d d d d markes; on which the Editor

me for you £2000: and as for Sir Francis Englefield, he is farre more bounde and beholdinge to me than I to him: and there is no privye or secrett matter but I may make my best of you.' The Englefields acknowledge his goodness, and Mr. Plowden gives the heir his marriage: 'And take it' (says he) 'for a guift of £2,000: and in recompence of it, I crave noe benifitt for myselfe or my owne children. But here I have in my house my cozen Humffrey Sandford, my sister's sonne,[1] and his wife, and some of theire children. He hath served your uncle, Sir Francis, in the partes beyond the seas many yeres att my charges; for I gave him every yere xx. markes standing to serve Sir Francis, besydes many othere wantes I supplied to him; and his fathere alsoe gave him somewhat; all of which he spent in your uncle's service. . . . . In consyderacon of this service done to your uncle, and

observes: 'Whether these be five c's or five d's I am not certain. In either case, I presume it was the lady's fortune. The letters are more likely to be c's than d's, and the sum five hundred marks, rather than two thousand five hundred; a computation by five hundreds is at least unknown to me. But the money was surely not the lady's fortune, and it is extraordinary that Mr. Peck should have made such a mistake. It was certainly the price paid by Sir John Nevill to his son-in-law's guardian in chivalry (I suppose the crown) for his marriage, *i. e.* for the permission to marry that young heir to his own daughter. It is amusing to observe the relative prices of some of the articles at this nuptial feast:—An ox was only 30s.; a brawn, 10s.; a calf, 2s. 8d.; a wether, 2s. 4d., all fit for the table; fat swans, 6s. apiece; and loaf sugar 7d. a pound."

It was formerly usual to call nephews and nieces by the name of cousin,—this is hardly yet quite worn out among old people in the country.

[1] His nephew, although called "cozen."

for this my liberality towards you, I only praye you when such things as be in his father's hands shall come to your disposition, that you will make a lease thereof to him, his wife and sonne, for theire three lives, at the old rente; and this I do not accompte past £200.'"

The promise was of course made, but after Mr. Plowden's death forgotten; and Mr. Englefield not only refused to fulfil his engagement to the son, but even proceeded to dispossess the father.

The whole of this transaction is much too long for transcription; but the fatal effect of it upon the old gentleman is related with much feeling.

"When all would not serve, he presently fell sicke, called his wife and family to him, and thus complayned:—

"'Have I bestowed my sonn's service to my intollerable charges soe many yeres uppon his unckle beyond the seas? Have I adventured my sonne and heyre uppon him soe longe, alwayes in hazzard of the Queen's displeasure, and reddy alwayes to be attainted, my bloud and house to be corrupted for doing his uncle service? And is this the reward I have? Wife, carry me to Plowden. He hath killed me; he hath killed me! Lett me not dye on his grounde. I will not dye on his grounde! And soe with all speede caused himselfe to be carried to Plowden, where with theese continuall words in his mouth—"he hath killed me; he hath killed me!" he languished about a

moneth, and then, of verry sorrowe and conceyte, died.' "[1]

We will just relate the Serjeant's attendances in Parliament.

As soon as Queen Mary came to the throne he sat for Wallingford,[2] in the next year for Reading. And he was also returned for Wootton Bassett.[3] And again for Wootton Bassett.[4] But as soon as Elizabeth succeeded he ceased to be a member of the Legislation.

In January, 1555, he withdrew, with thirty-nine other members, from the House, being dissatisfied with the proceedings of Parliament. The Attorney-General filed a Bill against them for contempt, and six submitted, but Mr. Plowden traversed fully. The matter was never decided.[5]

"*A traverse, full of pregnancy*," to use the words of Lord Coke. Strype relates, "That the members of the Parliament of 1554 were handled by the Court, to root up many good statutes, and to lay upon the nation the old Roman yoke again, and to receive the

[1] Blakeway's "Sheriffs of Shropshire," pp. 222, 223, 224. See further concerning Sandford, *Ibid.* However, Humphry Sandford, the son, Plowden's nephew, became ultimately the purchaser of the estate. The purchase was made by Mr. Sandford from the vendee of the Crown, after it became forfeited by the voluntary exile of Sir Francis Englefield; and this estate is now in the possession of Mr. Sandford's lineal descendant.—Burke's *Commoners*, vol. iii. p. 252, note.

[2] Oct. 5; March 1, 1553.

[3] Nov. 12, 1 and 2 Ph. and M., 1554.

[4] Oct. 21, 2 and 3 Ph. and M., 1555.—Willis's *Not. Parl.* vol. iii.

[5] Cooper's "Athen. Cantabr.," vol. ii. p. 501.

Pope's authority into the realm. Yet it went against the grain with a great many of them, who, seeing how things went, did, at last, from the 12th of January, wholly absent from the House, and came no more there, to the number of thirty-nine persons, whereof the great lawyer Plowden was one. 'He is called Edm. Plowden de Tibmersh in Com. Berks. Arm.' "

Edward Griffith, the Attorney-General, preferred a Bill of Indictment against them in the King's Bench, for departing without licence, contrary to the inhibition of the King and Queen.

Plowden pleaded, that he remained continually, from the beginning to the end of the Parliament; but this was merely a general traverse, to put the other side to full proof.[1] This was mere special pleading, but it had the fruit of postponing the decision till the Queen's death.

Miss Strickland, in her "Lives of the Queens of England," thus graphically describes this political exodus. Speaking of the rancour against the Protestants, she says:—"Yet all ought not to be included in one sweeping censure. A noble minority of good men, disgusted at the detestable penal laws which lighted the torturing fires for the Protestant, seceded bodily from the House of Commons, after vainly opposing them. This glorious band, for the honour of human nature, was composed of Catholics, as well as

[1] "Ecclesiastical Memorials," vol. iii. pt. 1, p. 262.

Protestants. It was headed by the great jurist, Serjeant Plowden, a Catholic so firm, as to refuse the Chancellorship, when persuaded to take it by Queen Elizabeth, because he would not change his religion.

"This Secession is the first indication of a principle of merciful toleration to be found among any legislators of England.

"Few were the numbers of these good men, and long was it before their principles gained ground. For truly the world had not made sufficient advance in Christian civilisation to recognise any virtue in religious toleration.[1] Nevertheless," adds Miss Strickland, these were thirty-seven in number.[2] Good Christians they were, though different denominations of religion were found in their ranks. Some of their descendants are Catholics to this day, as the Plowdens. Some are Protestants of our Church, as the descendants of Row, Member for Dunwich.[3] The humane seceders from Parliament were punished for the desertion by fine and imprisonment, and other Star Chamber penalties . . . . (and what does not appear so very uncomfortable), the loss of their Parliamentary wages. The Secession actually took place . . . . Sir Edward Coke has preserved some particulars relating to it.

[1] Vol. iii. p. 544.

[2] See their names. Cobbett's "Parliamentary History of England," vol. i. p. 625. Amongst them Edmund Plowden de Tidmersh, Com. Berks.

[3] Spelt wrongly, "*Rowse*" in Willis, as it would seem. "Not. Parl." vol. iii. p. 194.

He was the last man who would have followed such an example.[1]

"Six Members were so timorous as to pay their fines; but all the rest, amongst whom was that famous lawyer, Plowden, traversed; but judgment against them was prevented by the Queen's death."[2]

We come now to a remarkable incident in the life of Plowden. It was an episode in the career of the great lawyer, and is, perhaps, as surprising an event as can be found in the annals of legal bibliography. A letter has been preserved at Plowden Hall, the ancestral mansion, written by Queen Elizabeth to the Serjeant, containing an offer to make him Lord Chancellor, if he would consent to change his religion. She was a Princess of great sagacity, and foresaw that she would strengthen her Government by taking into her counsels the ornament of the English Bar, the Follett of our day. . . . Her Protestant tendencies were undeniable; but she was not so absolutely bound to that creed as to remove all Mary's Judges. Sir Anthony Browne, although no longer Chief Justice, was continued as one of her Justices of the Common Pleas. . . .

Of the existence of this document there can now be no question. For its authenticity the honesty of the Catholic lawyer would alone be a guarantee. . . .

The late owner of Plowden Hall, Salop, died in

[1] "Lives of the Queens of England," vol. iii. p. 543, n. 1.

[2] Cobbett's "Parliamentary History," vol. i. p. 625.

1838. He was succeeded by William Henry Francis, his nephew, the present possessor. When this gentleman came to occupy the Hall, the Catholic Chaplain, in residence, informed him, that during one of the periodical visits of his uncle,[1] he said to the Chaplain: "I have just been reading in the munimental room a most valuable letter. It was addressed to my ancestor, Edmund Plowden by Queen Elizabeth, offering to make him Lord Chancellor, if he would consent to change his religion." Notwithstanding the most diligent search this letter cannot be found.

But a copy of the answer has been preserved, which we subjoin:—

"Hold me, dread Sovereign, excused. Your Majesty well knows I find no reason to swerve from the Catholic faith, in which you and I were brought up. I can never, therefore, countenance the persecution of its professors. I should not have in charge your Majesty's conscience one week before I should incur your displeasure, if it be your Majesty's royal intent to continue the system of persecuting the retainers of the Catholic faith."[2]

[1] Early in the present century.

[2] MS., copied from Miss Eliza Plowden's Papers. She was the daughter of Mr. Francis Plowden, who died in Paris, 1829, MS. The following is from an anonymous pamphlet, in possession of William Plowden, Esq. "Edmund Plowden was a Member of Parliament during Queen Mary's reign. At that time the majority of persons comprising the Houses of Peers and Commons were dishonest and indifferent to all religions, only anxious to maintain the possession of the rich church lands, with which Henry the Eighth had bribed his aristocracy. . . . Yet all not to be included in one sweeping censure,

Her Majesty is said to have admired the firm frankness of her Serjeant.[1]

"When Francis Plowden published his 'History of Ireland,' Sir Philip Musgrave entered into some strictures on it. He was answered by the author, who quoted a letter of Queen Elizabeth, offering the Chancellorship to his ancestor, if he would abjure his religion. Fuller, our Church historian, a man as honest as himself in continuation in his praise of this noble-minded lawyer, says, he is, perhaps, a still finer specimen of human nature than Sir Thomas More himself, since he was so far in advance of his age as to have understood that religious toleration was a virtue. . . . Camden, another honest man, speaks with delight of Plowden."[2]

But Elizabeth, notwithstanding her admiration of Plowden, proscribed the worshippers of the Roman Cross, even unto death. For, at one time it was unsafe for a priest to be found in England, a capital penalty being attached to his appearance. The act of assisting at mass was likewise visited with severe punishments. If Plowden felt acutely the threats

for a noble minority of good men, disgusted at the penal laws which lighted the torturing fires for the Protestants, seceded bodily from the House of Commons, after vainly opposing them. This glorious band was headed by the great legalist, Serjeant Plowden, a Catholic, so firm as to refuse the Chancellorship when urged to take it by Queen Elizabeth, because he would not change his religion," MS. See likewise Sir Francis's Reply to Sir Philip Musgrave. 8vo. 1806.—*Notes and Queries*, ii. 1, 12.

[1] It should be *the* Serjeant. He was never made a Queen's Serjeant.

[2] Strickland's "Lives of the Queens of England," vol. iii. p. 544, n. 3.

denounced against his brethren, Fleetwood, also a great lawyer of these times, was earnest to enforce them. . . .

Plowden was once menaced with serious trouble for a supposed misdemeanor in "assisting at mass."

One day, whilst residing on one of his estates, some persons came, with no good will, to inform him that mass was about to be celebrated in a certain house in the neighbourhood. He might wish to assist at it. Plowden hastened to the place, and was seen to make the sign of the Cross and use his prayer-book. For this offence he was shortly afterwards summoned. He was suspicious of foul play somewhere, and cross-examined the witnesses, and, amongst others, the priest himself, who had officiated. . . . He demanded of this man whether he would swear that he was a priest. To this question the answer was in the negative. "The case," exclaimed Plowden, "is altered. *No priest, no mass; no mass, no violation of the law.*"

It became a common proverb after this:—

"The case is altered, quoth Plowden."[1]

Plowden was in a curious case, in which the Dean and Chapter of Chester, having lost the estates intended for their endowment by Henry VIII., by reason of a compulsory surrender by their predecessors, petitioned the Crown for their restoration. Sir Richard Cotton, having got the forced surrender,

[1] MS. Cooper's "Athenæ Cantabr." vol. i. p. 502.

sold the estates piecemeal to several Cheshire gentlemen. But at last the Chapter discovered that the word "Cestriæ" was left out in the original grant, so that, according to their view, it was void, and was never out of the Crown. So Queen Elizabeth was urged to carry out King Henry's original intention. The case was argued in the Exchequer by Popham, then Serjeant for the Crown, and Egerton for the Cheshire gentlemen, the fee-farmers. And again, by Gaudye Serjeant, for the Crown, and Plowden for the farmers. Probably, through Plowden's knowledge, they became aware that they should lose their cause, so that they gave the favourite, the Earl of Leicester, six years' rent of their lands. Upon this, the Earl stopped the proceedings, and had a commission issued for hearing the cause before himself and other Lords of the Privy Council. The end was, that all the estates were surrendered to the Crown; and Elizabeth, in 1579, granted them to the fee-farmers, Plowden's clients, subject to certain rents, payable by each. And these last rents she gave to the Dean and Chapter, and these form the principal part of their present endowment.[1]

We must believe that Plowden had a governing hand in these proceedings, as far as the counsel of an able and wary lawyer could be of service.

Another of his famous cases was his defence of

[1] Lysons's "Magna. Brit." vol. ii. p. 573, n. Citing Harl. MSS. No. 2060, p. 90—113; and No. 2071, pp. 166, 167.

Bishop Bonner. Bonner was the deprived Bishop of London, and was confined in the Marshalsea, which was within the diocese of Winchester. Horne was Bishop of that see, and ordered, "with officious and reprehensible zeal," the oath of supremacy to be tendered to him. Of course, Bonner refused, and his refusal being certified to the Court of King's Bench, he was indicted for refusing. Plowden, Wray, (afterwards Chief Justice of that Court) and Lovelace, defended him. These lawyers denied that Dr. Horne was Bishop of Winchester, and all the judges held that the deprived Prelate might submit that fact to a jury. But an Act of Parliament was forthwith passed, freeing all persons from molestation by occasion of any Bishop's certificate of refusal to take the oath of supremacy theretofore made, or which should be made before the last day of that Session.

"The Parliament saw that they, the Bishops, had already lost their livelihood and liberties for their erroneous consciences, and had received their thirty-nine stripes, more than which the State thought not fit to inflict, lest their justice should degenerate into cruelty."[1]

It is affirmed, that the bold advocacy of Plowden was completely successful.[2]

On the 15th October, 1566, Plowden appeared at the Bar of the House of Commons as counsel for

[1] Cooper's "Athenæ Cantabr.," vol. i. p. 402. See Froude's "Elizabeth," vol. i. p. 491, in "History of England," vol. vii.

[2] Cooper's "Athenæ Cantabr.," vol. i. p. 501.

Gabriel Goodman, Dean of Westminster, in opposition to a Bill for abolishing sanctuaries for debt. He was successful, the Bill being rejected on the 4th December by a majority of fifteen, seventy-five against sixty.[1] . . .

Mr. Plowden was accompanied to the Bar by Ford, a civilian. The Dean himself spoke in favour of the sanctuary, and alleged divers grants by King Lucius, and divers other Christian kings. Mr. Plowden alleged the grant for sanctuary here by King Edward five hundred years before. However, the Bill arrived at the third reading before it was "*dashed*"—as Strype expresses its loss.[2]

In 1579, Plowden was counsel in a case in which Archbishop Grindall was nearly concerned respecting lands at Battersea and Bishopsthorp. And leases were granted according to his advice. Egerton, Solicitor-General; Ayloffe, afterwards a Judge; and Mr. Willram, were with him in the cause. He is called "Ploidon."[3]

It is not to be supposed that a man so tenacious of his faith should not have been suffered during the days of Elizabeth.

On the 20th December, 1569, he gave a bond to be of good behaviour for one year, and, when summoned, to appear before the Privy Council. This was in consequence of his again refusing to acknowledge the

[1] Cooper's "Athenæ Cantabr," vol. i. p. 501.
[2] "Annals of the Reformation," vol. i. pt. 2, p. 229.
[3] "Life of Grindal," Strype's Works, p. 366.

supremacy of the Queen. He was deseribed in the bond as of Shiplake, Oxon; and this trouble came upon him at the instance of the Sheriff and Justices of Berkshire.[1]

On the 2nd December, 1580, articles concerning matters of religion were exhibited against him.[2]

In the British Museum, or in the State Paper Office, there is, we believe, a record of some fines which were inflicted upon him. And probably a copy of them is in the hands of some member of the family.

In the latter years of his life Edmund Plowden retired from London, and resided in one or other of his three estates, Plowden Hall (where he re-built the house which exists to this day), Burghfield, and Shiplake. . . .

We give an extract from "a view taken of, and inspection made, into the state and condition of Plowden Hall in 1695," by Mr. Hugh Phillips:—

"Mr. Plowden's estate in Shropshire lies very finely together in a valley; is very well wooded; much more so than any estate near it. But the mansion house lies low, and much out of the sun, especially in winter, which occasions it to be cold and moist. However, I find that the lawyer, and Francis, his son, lived mostly there, and kept good hospitality."[3]

[1] Cooper's "Athenæ Cantabr.," vol. i. p. 501.

[2] *Id.* p. 502; Lemon. "State Papers," 1547—1580; "Domestic. Eliz.," p. 355, December 2, 1580.—*Id.* p. 689.

[3] MS.

Edmund Plowden died on the 6th February, 1584, at the age of sixty-seven, and was buried in the Temple Church, between the body of Katherine, his wife, daughter of William Sheldon, of Besly, Worcestershire, and the north wall, near the east end of the choir.[1] He is represented recumbent in his tomb of alabaster, and in his gown.[2] The monument has been removed from the north wall to the trifolium.[3] There is already an epitaph, says Wood, over his grave.[4]

Camden writes thus admirably of him:—"Plowdeni mors. In Angliâ non alii è vivis excesserunt, memoria digniores quàm Edmundus Plowden, qui ut in Juris Anglici Scientiâ, de quâ scriptis bene meruit, facile primus, ita vitæ integritate inter homines suæ professionis nullo secundus."[5]

This is the epitaph:—"Conditur in hoc tumulo corpus Edmundi Plowden Armigeri qui clarus[6] ortus parentibus, in comitatu Salopiæ natus est; a puerilio[7] in literarum studiis[8] liberaliter est educatus; in provectiore vero ætate legibus et juris prudentiæ operam dedit. Senex jam factus, et annum ætatis lxvii. agens, mundo valedicens in Christo Jesu sancte obdormivit. Die vi.^to^ mensis Feburarii, A^o^. Domini, M.D.LXXIV."[9]

[1] Wood, by Bliss, vol. i. p. 508. This lady is mentioned as the daughter of William Sheldon, of Beley, Oxon, in Burke's "Landed Gentry" (Plowden).

[2] Herbert's "Antiq." p. 269.

[3] MS.

[4] Wood, as above.

[5] "Annales," p. 426. And see Lloyd's "State Worthies," vol. i. p. 460.

[6] Claris?

[7] 'A Puericiâ?

[8] Studio?

[9] Wood, as above, n. 4.

The following seems to be intended for an addition, but it does not appear:—"Credo quod redemptor meus vivit, et de novissimimâ die de terrâ resurrecturus sum in carne meâ, videbo Deum Salvatorem meum. Vixi in freto. Morior in portû."[1]

He left a son, Edmund Plowden, who died in less than two years after his father, and *bequeathed* his body to be buried in the Ancestral Chapel at Bow, joining North Lidbury, near Plowden.[2]

His second son, Francis, married Mary, daughter of Thomas Fermor, Esq. He died December 11, 1652.[3]

He had three daughters. Mary married Richard White, of Hutton, in Essex, the father of Thomas White,[4] a great philosopher and controversial writer. He is supposed to be the "Thomas Anglus," who answered Joseph Glanvill's "Vanity of Dogmatizing." He was of the Roman persuasion, and was highly respected by Hobbes, of Malmesbury, although they seldom parted without a wrangle about philosophical matters, both being fully eighty. White lived to be ninety-four, and was interred at St. Martin's-in-the-Fields,[5] where his bones may now lie, if they were not

[1] MS. See Cooper's "Athenæ Cantabr.," vol. i. p. 502; and Fuller's "Worthies," Shropshire, vol. ii. p. 259.

[2] Wood, by Bliss, vol. i. p. 505. "The name and posterity of this Edmund Plowden do still remain at Shiplake." *Ibid.*

[3] Cooper's "Athenæ Cantabr.," vol. i. p. 502; Burke's "Commoners," vol. iii. p. 253. Where a full account of the family has been recorded.

[4] Cooper, as above.

[5] Wood, by Bliss, vol. iii. p. 1247. There was a Sir Edmund Plowden, or Ployden, of America in the seventeenth century, of whom an abundant ac-

exhumed during the great improvements there in this century.

Anne married Edmund Perkins, Esq., of Upton, Berkshire; and Margaret married John Walcot, Esq.[1]

Plowden's sister married the grandson of Humphry Sandford, of Up. Rossall, St. Chad's, Shrewsbury. It was called the *Isle* of Up. Rossall, and the young man removed to that place upon his marriage.[2]

Again, in the "History of Shrewsbury," one Sandford is mentioned as "brother-in-lawe to Mr. Ploden, learned in the lawes."[3]

Having the management of Sir Francis Inglefield's Shropshire property, Plowden placed his brother-in-law in a tenement there, and obtained from the nephew and heir of Sir Francis the promise of a lease of the same to his own nephew, Humphry Sandford, son of Richard,[4] a promise which, as we have seen, was not fulfilled, and the breach of which caused a tragical issue.[5]

In the edition of his "Commentaries," published in the Savoy (the famous fount for eminent law works),[6]

count will be found in "Notes and Queries." See especially First Series, vol. iv. p. 319. As to the Plowdens of Aston, see Baker's "Northamptonshire," vol. i. p. 469.

[1] Burke's "Commoners," vol. iii. p 253.

[2] Blakeway's "Sheriffs of Shropshire," p. 222.

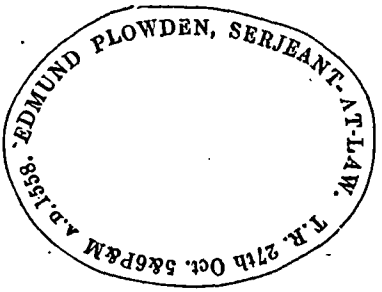
[3] "History of Shrewsbury," vol. i. p. 367.

[4] Blakeway, as above. "This request was, indeed, no more than Mr. Plowden had a good right to expect from young Mr. Englefield, for he seems to have been a signal benefactor to his family."—*Ibid.*

[5] *Ante.*

[6] Cooper's "Athenæ Cantabr.," vol. i. p. 503.

in 1761,[1] a portrait of the Serjeant will be found. This is said to have been taken from a monument in the Temple Church.



He is sculptured in a recumbent posture, praying, with his hands clasped. The countenance betokens a person of great thought and much honesty. It seems chastened, as though its possessor had endured afflictions.[1] The arms appear at the base.[2] They are azure, a fesse dansettée, the two upper points terminating in fleurs-de-lis, or.[3] They are also in a conspicuous place, in one of the stained glass windows in the Hall of the Middle Temple, with this inscription:—

"Hoc perfecit opus, legum cultoribus hujus;
Maxima cura viri, sit honos his omne per ævum."

Alluding to the "Commentaries." The portrait has been engraved by T. Stagner, the monument by J. T. Smith.

[1] The mottoes to this edition are:—
"Quid te vana juvant miseræ ludibria chartæ?
Hoc lege, quod possis dicere, jure meum est."—*Mart.*
"Videte quod non mihi soli laborari,
Sed omnibus exquirentibus scientiam.—*Ecclus.*, cap. 24.

[2] See the edition of 1761.

[3] Burke, "Landed Gentry." "Plowden."

A bust of this considerable lawyer has been presented to the Society of the Middle Temple by "Mr. Robert Ingram, of Slough, one of the oldest members of the Society. The execution of the bust reflects the greatest credit on the sculptor, Mr. Morton Edwards, and is a fitting complement to the bust of His Royal Highness the Prince of Wales, also by the same talented artist, which was presented by Mr. Ingram to the Society upon the occasion of His Royal Highness opening their magnificent library."[1]

The bust was unveiled on the grand day of Trinity Term, 1868. It will be borne in mind, that Plowden was Treasurer of this Inn in 1572, when the Hall was built.

This "bust, of Carrara marble, is taken principally from the original terra cotta bust, which was executed in his lifetime, and which has remained nearly three centuries in Plowden Hall, Shropshire. It stands at the western end of the Hall, on a column in Sicilian marble,"[2] bearing upon it the following inscription:—

"Edmundus Plowden Arm
Soc. Medii Templi
Per sex annos
Regnante Elizabethâ
Thesaurarius
Deinde Aulæ extruendæ
Præpositus curator
Quo Opere sub ejus auspiciis
Fauste feliciter que
Ad finem perducto,
Obiit viii. Id. Feb.
A.D. M.D.LXXXIV.—V.
Ætatis suæ lxvii."

[1] "The Evening Star," June 11, 1868. [2] *Ibid.*

"The ceremony of unveiling took place in the presence of upwards of two hundred barristers and students of the Society, and a number of ladies who were admitted to the 'Minstrel's Gallery,' amongst whom it is worthy of mention were the Misses Plowden, lineal descendants of the great lawyer."[1]

A very distinguished company was present, and in the absence of Mr. Monk, the Treasurer, owing to illness, Sir Robert Phillimore, the Judge of the Admiralty, presided, and made a very complimentary speech in honour of Plowden.

"The bust was then uncovered amidst the applause of all present."[2]

Mr. Morton Edwards says, that the terra-cotta bust shows evidently a cast after death, and, in terra-cotta, not so good a work of art as a picture of Plowden in panel, also in Plowden Hall, being somewhat in the style of the Shakspere at Stratford.

With regard to the Serjeant's estates, he is said to have left lands lying at Plowden, also at Shiplake, and at Burfield, Berkshire.[3] The Manor of Wokefield was in the hands of the Crown at the time of the Norman survey as an appanage to Aldermaston, in Berkshire. It was then held by the Mortimers, and went, by jointure, to the Queen of Henry VII. in 1495. Henry VIII. settled it on Katherine Parr, after which it

[1] "The Evening Star" gives the names.
[2] *Id.* June 11, 1868.
[3] Wood, by Bliss, vol. iii. p. 505.

became, by purchase, "the property of the great lawyer, Serjeant Plowden."[1]

By letters patent, dated December 10, 1585, Queen Elizabeth, in consideration of a small fine, demised to Andrew Blunden, gent., Edmund Plowden the younger, and Francis Plowden, Shiplake in Oxon and Berks for life.[2]

An extract from the will, dated 2nd January, 1581, in which the Serjeant is described of Burghfield and Shiplake, and of Plowden, Salop, Esq., is as follows:—"But if I die in London, my desire is, that my body may be buried in the Temple Church, where the body of my late loving wife, Katherine Plowden lieth, and that my body lye between her body and the wall, on the north side, in the Chapel there, where she is buried; and I will that the tomb, or other monument on the wall, should declare that we both lye there buried; and if it should chance me to dye in or about Burghfield, that then my executors do there bury me; and the funeral, and the order thereof, which I would not have great, I refer to my executors. And I give to every twelve of the poor householders in the Parish of Burghfield to be named by the aforesaid Parish and Churchwarden there, and likewise to any twelve of the poor householders of Shiplake to be named by the Vicar of the Church and Churchwardens there, 3s 4d., to be delivered to them the month after my death;

[1] Lysons's "Magna Brit." vol. i. p. 376.

[2] Cooper's Athenæ Cantabr.," vol. i. p. 502.

and I give to the Parson of Burghfield 10s., and to the Vicar of Shiplake 13s. 4d. for all."[1]

These grave lawyers are apt to leave behind them some dry recollections under the head of Reports. Plowden was one of them; and in a famous Preface, written by him, gives them the name of "Commentaries or Reports." They were originally written in French,[2] but translated by Fabian Hicks, Esq., who was buried in the Temple Church. In 1689, they were abridged in the French language. The eminent lawyer, Fleetwood, Recorder of London, of whom we shall speak by-and-by, made a table to them.[3] Daines Barrington calls him the most accurate of all Reporters.[4] And Mr. Hargrave bears the highest testimony to their worth.[5] Fulbeck also speaks of them as highly valuable for the improvement of students.[6]

There is a copy of this book at Plowden Hall, and on the margins of the leaves are many notes in the handwriting of the author.

Moreover, several of his manuscripts will be found in the Hargrave Collection in the British Museum.[7]

[1] MS.

[2] The first edition was in 1571. There were also editions of 1578, 1599, 1613, and 1684; but in 1671 The English Edition, folio, Mr. Bromley, Editor and Translator, was published. Other editions are: 2 vols. 8vo. Dublin, 1792; and 2 vols. 8vo. London, 1816.—*Notes and Queries*, vol. 2; viii. p. 454.

[3] Wood, by Bliss, vol. i. p. 504.

[4] Observations on 1 Ric. II.

[5] "Co. Litt.," p. 23, a. See Worrall's "Biblioth. Legum," and a full Catalogue of his Works, pp. 23, 247.—Cooper's *Athenæ Cantabr.* vol. i. p. 502.

[6] "Study of the Law," p. 25.

[7] See Index to these MSS. Tit. (Plowden, Edmund).

He also published his "Queries," or Moot-Book for Young Students.[1]

"At Pensax Court, Worcestershire, is a MS. with the following title:—

"'A Treatise of Succession, written in the life-time of the most virtuous and renowned Lady Mary, late Queen of Scots, wherein is sufficiently proved, that neither her foreign birth, nor the last will and testament of King Henry Eighth, could debar her from her true and lawful title of Queen of England. Written by Edward (Edmond) Plowden, of the Middle Temple, an apprentice in the same.'

"The dedication to James I. is signed by Francis Plowden. The MS. contains 160 pages in folio, and is very carefully written in the style of the period, with ornamental capital letters, &c. I do not find this work of Edward (Edmond?) Plowden noticed in either Watt or Lowndes, and, probably, it has never been printed," &c.[2]

Another letter, published subsequently, and signed, "Ralph Thomas," in answer to a query in the tenth volume,[3] whether this MS. was in the British Museum, states that the writer had not been able, after a long search, to find it in that Museum. He adds,—"It is not in any of the Inns of Court Libraries. I should

[1] See "Rose's "Biog. Dict." vol. xi. *in loco*; Bridgman's "Legal Bibliog." p. 252.

[2] Letter, signed "Thomas E. Winnington," in "Notes and Queries," vol. iii. 10, p. 353.

[3] See above.

think it has been printed, as it is referred to in Hale ('Hist. Pleas of the Crown,' vol. i. p. 324, 1736 folio), as 'Mr. P.'s' learned Tract touching the right of succession of Mary, Queen of Scots," &c.[1]

[1] See the letter, "Notes and Queries," vol. iii. 11, p. 184.

WILLIAM FLEETWOOD,

Serjeant-at-Law, 1580; Queen's Serjeant, 1592.

We now come to a man in his nature and character altogether different from Plowden. Yet he was an advocate of the first class—a writer, a member of the legislature, and sincere in his religious convictions. Plowden was a conscientious and resolute Catholic of the Roman creed—Fleetwood was a zealous Protestant. If the Reformers met with evil entertainment in the days of Mary, the priests fared but ill during the reign of Elizabeth, and the dominion of Fleetwood.

Plowden makes no figure as a persecutor. Though earnest, he was gifted with moderation, and certainly earned no premature advancement through bigotry. Fleetwood was over-heated with a zeal by no means tempered by discretion. If it should be asked why the eager Recorder of London never ascended the Bench in Westminster Hall, he might be said to have endangered his promotion by his fiery espousal of the religion of the day. Plowden, as to time, was rather before Fleetwood. It is probable that they met rarely, if at all, in private life. Yet, notwithstanding his intemperance in ecclesiastical matters, Fleetwood, the

Recorder, was by no means incapable of estimating and honouring his learned contemporary. He attacked the Portuguese ambassador in his own dwelling on public grounds, and went beyond the rules of international law and ordinary prudence, but it may be conceived that he must have surveyed Plowden during their forensic career with respect.

Both these eminent men acquired and retained property. Both were devoted to legal attainments and left behind them testimonies to their knowledge. If they were far apart in religious observances, they were quite in common when expounding the laws of their country.

With regard to forensic employments, Plowden's business seems to have been of a higher grade than that of Fleetwood. True it is that the latter had the responsible, and, in that day, arduous post of Recorder of London, but still it is difficult to deny, when looking into the transactions of those times, that Serjeant Plowden, notwithstanding the obstacle of the Roman faith, had the superiority in legal position.

In public life, Plowden was dignified, honest, and impartial. Fleetwood's behaviour savoured of the partisan, and the utmost reward he could obtain shortly before his death, was the rank of Queen's Serjeant, when Coke had contrived to oust him from his long tenure of civic office.

To Plowden, on the contrary (there is no reason to doubt it) the Chancellorship was offered.

We have thought it not amiss to submit these eminent lawyers to a comparison. The reader, if he should think fit to follow it, will form his own judgment of their respective merits. It may be suggested that whilst the one shrank from the high calling placed within his reach, the attainments of Serjeant Fleetwood must not be disregarded, although over zeal and intemperance in a cause were not then, more than now, passports to the Bench.

William Fleetwood was descended from the Fleetwoods of Penwortham, and the Heskyns's in Lancashire. He was born in the parish of Heskett with Becconsall.[1] He was the illegitimate son of Robert Fleetwood, of Hesketh,[2] a younger brother of Thomas Fleetwood, of the Vache, Chalfont St. Giles, who was Master of the Mint, and Sheriff of Bucks in 1564.

He wrote his name Fletewode.[3] Wood says that he was sent to Brasennose or Broadgate Hall, but that he left it without a degree, and retired to the Middle Temple.[4]

He was called to the Bar by that Society, and the honour which Herbert attributes to him of being an ornament to the place of his education, is only his right, whether as an advocate, an author, or a man.[5]

Nevertheless, the young Templars of that day were

[1] Baines's "Lancashire," vol. iii. p. 440. [2] Or Heskett.

[3] Strype's "Stowe's Survey," vol. ii. p. 161. Ex. MS. ed. Umph. Arm. 1st of April, 1749.

[4] "Athenæ Ox." Bliss, vol. i. p. 599.

[5] Wood, as above. Herbert's "Antiquities of the Inns of Court," p. 269.

notoriously riotous. . . . . Their excesses helped to aid the Puritans in the more moderate enjoyments which the followers of Cromwell were able to sanction. It was difficult to rein in the youthful sallies of the students. Fines were imposed, but in vain, therefore expulsion for offences afterwards condoned was resorted to. Fleetwood, amongst other considerable men, was expelled from his Inn.[1]

In 1563, 5 Elizabeth, he was elected autumn or summer reader, and, in the following year, autumn reader again, but omitting one of those times to read, he was in the 11th year of the Queen elected double reader in Lent.[2]

There is no doubt but that Mr. Fleetwood attached himself in early life to politics. Indeed, it has been said that he was an eloquent orator, and that his skill as a politician recommended him much to the notice of Leicester.[3] It is probable that his first seat was in his native county, for the town of Lancaster. This was in 1563, 5 Elizabeth.[4] In the next Parliament, 13 Elizabeth, 1571, he appears as one of the burgesses for St. Mawes, Cornwall,[5] and in 14 Elizabeth he was one of the four Members for the City of London.[6] And, to

[1] "It is also ordered, that Mr. Fleetwood and Mr. Martin be expulsed, for the abuse and misdemeanours by them offered to the Masters and Benchers of this house." "Life of Sir John Davys," by George Chalmers, prefixed to the "Historical Tracts," pt. IV.

[2] Herbert's "Antiquities of the Inns of Court," p. 269.

[3] Rose's "Biographical Dictionary," *in loco*.

[4] Willis's "Not. Parl." vol. iii. p. 73.

[5] *Id.* p. 80. [6] *Id.* p. 392.

prevent unnecessary repetition, we may add, that he represented London again in 1585, 27 Elizabeth;[1] 1586, 28 Elizabeth[2] (when his eldest son, William, afterwards Sir William Fleetwood, probably sat for Poole)[3] and, for the last time, in 1588, 31 Elizabeth.[4] In 1592 he had retired. . . . . He died in 1593.

In 1571 he was elected Recorder of London, in the room of Wilbraham,[5] and continued in that position for twenty years. He had not been long in his dignity, when an impudent fellow called Blosse, alias Mantel, affirmed that King Edward was still alive, and that Queen Elizabeth had been married to the Earl of Leicester in 1564, and had four children by her. These lies had been furnished to him by a priest, and a person at Oxford. He confessed before Fleetwood, who consulted with Sir Gilbert Gerrard, the Attorney-General, whether the man should not be prosecuted for treason. But they could not find any law to reach him.[6] The person who was hung in Queen Mary's reign, said, that *he himself was King Edward.* That was a very different case from Blosse's.[7] But, with regard to the scandal against the Queen, Fleetwood wrote, that the man should have lost one of his ears if he had been convicted within three months of the slander. "But now that time is past, and therefore

[1] Willis's "Not. Parl." vol. iii. p. 103.
[2] *Id.* p. 112.
[3] *Id.* p. 110.
[4] *Id.* p. 122.
[5] Stowe's "London," vol. ii. p. 242.
[6] Strype's "Annals," vol ii. pt. I. p. 356.
[7] *Id.* App. pt. 2, p. 504.

by the statute, he ought to be set at liberty. And so thought Mr. Attorney."[1]

The life of Elizabeth was much overcast by cloud and tempest. She was abhorred by the Roman Church; she was upon occasion beset by rebels; she was tempted and encroached upon by favourites; her throne was not safe against the Scottish Queen, and she had to punish with inflexible justice the scandals which evil people are ever ready to utter against a wise sovereign. One of these we have just related. Another, equally base, was set down to the account of one Walmesly, of Islington. It was insisted, that Walmesly had told his guests openly at his table, that the Earl of Shrewsbury "had got the Queen with child, and that he knew where the child was christened." Upon this an indictment was drawn, but Fleetwood would not have it public, nor that evidence should be given in such a manner. So he had the jury into a chamber where he was, and he heard the testimony. "Among the witnesses," said Mr. Recorder, "was one Meredyth Hanmer, a Doctor of Divinity, and Vicar of Islyngton." But he had dealt as lewdly towards my lord in speeches as the other. "This doctor regardeth not an oath. Surely he is a very bad man. But, in the end, the indictment was endorsed, *Billa vera*."[2]

Fleetwood was a vigilant and resolute recorder. In

[1] Strype's "Annals," App. pt. II. p. 505.

[2] *Id.* vol. iii. pt. I. p 318. The suit to indict Walmesly was made to Fleetwood himself, by the Earl's gentlemen.

1577, indeed, there was some recrimination between him and the Lord Treasurer concerning the Plague which had then broken out.

But he well vindicated himself, and, fixing upon the worst places, the Duchy near Temple Bar, and the Temple, pointed out Lord Leicester's active conduct as to those dens. "He had weekly himself surveyed the Duchy," and if his orders had been followed, the plague would not have so greatly increased. "He passed twice with all the constables, betwixt the bar and the tilt-yard in both the liberties, to see the infected houses shut."[1]

In 1575 great efforts were made in the City of London, to accomplish a general moral reformation. The players met with great repulses, and their representations were restrained within narrow limits. They might play in private houses, but not openly, till the whole deaths had been "by twenty days, under fifty a week, nor longer than shall so continue. No plays on the Sabbath, nor on holidays, but after evening prayer, nor in the dark, nor continued any such time, but as any of the auditors may return to their dwellings in London before sunset, or, at least, before it be dark."[2]

In those attempts at municipal and moral amendment, Fleetwood was sure to be in the foreground. In this year, there was a maiden Sessions in London. And the Recorder, in one of his customary letters to

[1] Strype's "Annals," vol. ii. pt. 2, p. 140.
[2] Maitland's "London," vol. i. p. 263.

the Lord Treasurer, claimed to have discovered the reason. "The only cause," he writes, "that this reformation taketh so good effect here about London, is, that when, by order, he have either justly executed the law, or performed the Council's commandment, we were wont to have either a great man's letter, or a lady's ring, or some other token from such other inferior persons, as will devise one untruth to accuse us of, if we perform not their unlawful requests. The Court is far off; here we are not troubled with letters, neither for the reprieve of this prisoner, nor for sparing that fray-maker. These secretaries, chamber-keepers, and solicitors in the Court, procure many letters from their lords and ladies upon untrue suggestions; the which letters do great hurt."[1]

In this year, 1577 (Fleetwood being Recorder) the gaol at Newgate was full. Eighteen were hanged at Tyburn. Notwithstanding, it was the "quietest Sessions he was ever at." There were but the Lord Mayor, another Justice, and himself, for all the rest had gone away to escape the plague. There was "plain dealing," he said, and "neither favour nor partiality shown. The criminals were the most notable thieves in the land. The Court was at Windsor. There was not any reprieved." And Strype drily adds [and probably the distance of the Court was the cause thereof.][2]

[1] Maitland's "London," vol. i. p. 263.
[2] "Annals," pt. 2, p. 140.

This winter (1577) there was a design to rob the Lord Treasurer's house. About this, the Recorder, "A diligent and active man, made careful search." At first he was unsuccessful. "But, two nights past, it came into my head," he writes, "as I sat in my study, to know what conversation was kept in Smithfield and St. John's Street this Christmas." So there went forth a privy search. A number of "masterless" men were brought before him the next day for examination. Amongst them, was one "Yeamans." The Recorder did not know this man, but he was well acquainted with all the rest, "Newgate birds." Now, there was a condemned criminal named Croker, and he had offered to give some information, but, being cast for death, he was thought unworthy of credit. Mr. Recorder took a "grudge" against this Yeamans, and although even the Queen's men were treating for his release, and were very warm about it, he was sent to Newgate. As soon as he got in, and his name was entered in the book, Croker was standing by, and he at once affirmed, that the man was "Bullays," and more than that, that he it was who could make a declaration as to the confederacy to rob the house. Upon this, the keeper of Newgate brought both before Mr. Fleetwood, and being examined, Bullays confessed the matter. Then the Recorder consoles the Lord Treasurer, by saying, that these men knew nothing of the premises, nor were acquainted with any of the family. . . . . On the other hand, he acquaints my Lord, that "as I

can perceive, Pendred, the two Smiths, and Careless are acquainted with sundry parts of your Lordship's house."[1] So that the Treasurer's dwelling was beleaguered, and it was owing to his indefatigable correspondent, the active Magistrate and watchful Recorder, that so much information was gained concerning a desperate confederacy. . . . . .

He held, also, a kind of audit, on the 12th of each January, when he placed "cozeners, cheats, and cutpurses" under surveillance. He found out the fresh lot of these, and had their lurking-places within his eye, in case he might have need to take them. After these, came the receivers, and gage takers, and melters down of stolen plate.[1]

In 1586, he had by no means relaxed his watchfulness, and he tells us of another quiet Session which he had at Newgate. Upon this occasion, however, "none were executed." He still writes to the Treasurer: "Your Lordship may marvel why we have so few criminal causes at these last Sessions. The reason is this: 'We have in prison here in Newgate the most principal thieves of this realm. We lack none but Mannering; who doth daily gather into his society lewd persons, who commit, in all parts of the realm, most dangerous robberies. I hear that the genn, or ingen (engine) is in your Lordship's custody. The want thereof is a great Stay of many burglaries.'"[3]

[1] Strype's "Annals," pt. 2, pp. 141, 142. [2] *Id.* p. 142.

[3] *Id.* vol. iii. pt. 1, p. 659, *i. e.* the Torture and "Stay here" means "Support," not "arrest."—See Jardine's *Reading on the Use of Torture*, p. 15, *et seq.*

Some of our modern Recorders, of London, in particular, have been by no means celebrated for gentleness. Those who have ancient recollections, will easily carry them back to sharp severities on the part of some of these great corporate officers. But the Old Bailey, fifty years since, was not the Court in which forbearance and mercy might be learned. And now, when we look back to the days of Elizabeth, it was not difficult to devise means to punish an offence with full measure, both of law and rigour.

A French merchant, in 1581, delivered £40 in a sealed bag to a carrier's wife at Norwich. It was to go to a correspondent of his there. Probably, this was at an Inn. But the woman carried off the money to a house a good way off. Within a quarter of an hour, the merchant came again, in order to see his bag safely packed. He did not find his property, and, what was worse, the wife with "horrible protestations, denied that she had received one penny." The foreigner applied to Secretary Walsingham, and he wrote to the Recorder.[1] Great search being made, the money was restored, but the woman was ignorant of this. Upon this, the Recorder had her into his study privately. Here she was equally obdurate, and with expressions of a character common to her low class, refused to confess. However, being pressed, she said: "I will answer no further." "And then the Recorder, using the Lord Mayor's advice, bestowed

[1] "From whose letter I have this relation."—Strype's *Annals*, vol. iii. pt. 1, p. 91.

her in Bridewell, where she was punished as a vagrant, being well whipped." It was observable that she said then, "That the Devil stood at her elbow in the Recorder's study, and willed her to deny it. But so soon as she was on the cross[1] to be punished, he gave her over."[2]

About this same time, a woman named Norton drowned herself. She was mother-in-law to Thomas Norton, a person of some reputation in London. His father was aged, and sick in bed. Mrs. Norton was bred up in Sir Thomas More's family, in which (according to Fleetwood's letter to Walsingham upon the subject) she learned idolatrous toys and usages in the night. She was fond of necromancy, having talk (as she imagined) with her deceased acquaintance. At last, after speculating upon the manner of hanging and drowning, she preferred the latter, and came that way to her end, "being led by evil spirits." And now comes the moral of the tale. Mrs. Norton left children behind her, "which were shrewdly given," and it was feared, that if the old man should die, there would be "spoil of his goods." So Fleetwood proposed, that the Remembrancer of the Exchequer should be applied to, and he urged Walsingham to make the Lord Treasurer acquainted with the case.

"Such was the care of this good Recorder, of the children of the city."[3]

[1] The Triangle.
[2] Strype, *ut sup.* pp. 91, 92.
[3] Strype's "Annals," vol. iii. pp. 92, 93.

Fleetwood was by no means friendly to the Papists, and was much against what in those days were called "mass-houses." Nevertheless, he was obliged to yield betimes, even to bear with the recollection of a zealous Papist. Thirlby, the deprived Bishop of Ely, was entertained after his release from prison, until his death, by Archbishop Parker. Though, sometimes, he had a lodging in London, in Blackfriars, at one Mrs. Blackwell's. In this chamber died Mrs. Catherine Carus, a zealous Papist, and a native of Lancashire, the widow of a Justice of the Peace. She was supposed to have hired the room through the devotional sanction which Thirlby might be thought to convey to it. Fleetwood, a Lancashire man, had the task of writing the account of her death to Lord Burghley, and thus he wrote: "Katherine Carus, the late Justice's wife, my countrywoman, with all her pride and Popery, is this week gone, I trust, to God. She died in Bishop Thirlby's chamber, in Mrs. Blackwell's house in the Blackfriars."[1] His zeal, however, was not always so limited as to the Catholics. He had sometimes full sway, and at length overstepped the discretion which should never quit the Judge, not to speak of the politician.

This was in 1576. Mass was publicly said at the house of the Ambassador of Portugal, at the Charter House. The Ambassador, and many of the Queen's

[1] Strype's "Life of Parker," vol. i. p. 280.

subjects were present. Fleetwood heard of it, and Lord Burghley, knowing his zeal, thought him the fit person to stop it. So the Recorder interrupted them at their ceremony. This was a bold movement, and, of course, Her Majesty was invoked. "She was so complaisant as to command the Recorder to be committed." The ambassador, however, made a great clamour, and the Queen immediately referred the matter to the Privy Council. They appointed the Lord Keeper, the Lord Treasurer, and Sir Walter Mildmay, Chancellor of the Exchequer to examine into the matter, and in their letter of instruction, the outrages singularly appear. The ambassador declared himself not satisfied with the Recorder's punishment. All was laid upon Fleetwood: beating the porter, entering with naked swords, laying violent hands upon the lady, the wife of the Minister, the taking of the host and chalice, and other violences.[1]

The ambassador was ready to leave, having made a commercial treaty between the countries, so that it was necessary to appease him. The Recorder and Sheriffs were summoned before the Council, and "spake for themselves." The Lords then reported, that what had been done was according to law, yet, as the Portuguese had well managed the traffic, and was leaving the English shore, "It was thought meet by Her Majesty that they should go to the Fleet." So Mr. Warden

[1] Strype's "Annals," vol. ii. pt. 2, p. 24.

received them, and, on the same day, November 7, Fleetwood wrote to the Treasurer from the Fleet, uttering general and great thanks, but concluding: "The Queen's will must stand."[1] He does not seem to have been detained long in prison, though we have no account of his release.

Lord Burghley, nevertheless, his staunch friend, advised his giving a just and true relation of the matter in writing.[2] Accordingly he wrote a lengthy vindication of his conduct, with which we shall not trouble the reader, excepting, perhaps, with a few curious and remarkable passages which show the temper of the times, and throw light upon the violence with which conventicles were subsequently disturbed and dispersed. The document was addressed to the Treasurer, the Lord Keeper, and the Chancellor of the Exchequer. The Recorder seemed to consider the Treasurer, after all, as the chief agent, and, doubtless, he was behind the scenes. So the Judge flatly denied the imputation of the Portuguese Ambassador, that the attack upon him had proceeded from malice. As to that, "My Lord" (he is writing to Lord Burleigh), "I refer that to God and your Lordship's own conscience. I never said that we heard that your Lordship ever touched any man for

[1] Strype's "Annals," vol ii. pt. 2, p. 25.

[2] *Ibid.* The Lord Treasurer had privately encouraged Fleetwood against the Papists, and the latter, in his turn, was diligent in reporting all their proceedings, and the consequences of his searches.—See *Strype*, vol. iii. pt. 1, pp. 124, 197.

malice."[1] However, to give the Recorder's story. On the Sunday he went with the Sheriffs to the Charter House, and knocked, but could get no answer. Then one of the Sheriffs got upon the back stairs to see "that no mass-hearers should escape." The knocking went on till, at last "a Portugal" appeared, and said that his Lord was not at home. "Then let us speak with you," quoth we, "for we have brought letters." And the porter answered us very stubbornly. At last the gate was opened. "I, the Recorder, put in my left leg, meaning to enter in at the gate; and, being half in and half out, the porter, knowing me very well, said: 'Back, villain!' and thrust the gate so sore upon my leg, that I shall carry the grief thereof to my grave. Sithence that time my pain hath been so great that I can take no rest. And if Mr. Sheriff Kimpton had not thrust the gate from me, my leg had been utterly bruised unto shivers."[2]

The Recorder retired, for the man had seized him by the throat, and was feeling for his dagger, "and then I thrust him from me, for indeed he was but a testy little wretch."[3]

Having forced the entrance, the officials came upon the mass-hearers. There was the priest at the gospel, and there were the altar-candles lighted. Order was then given that all Englishmen-born should come

[1] Strype's "Annals," vol. ii. pt. 2, p. 26.
[2] *Id.* pt. 2, p. 27.
[3] *Ibid.*

forth of that place. Rapiers and daggers proclaimed the danger of the moment. Two bailiffs of Middlesex, upon this, drew their swords. "I caused the bailiffs," says Fleetwood, "to put up their swords. And Sheriff Kimpton appeased the Portuguese with their weapons."[1]

Then began a Babel of tongues. The wife of the Ambassador, and the maids, and mass-hearers, "all of a heap," speaking different languages.

"And then I said to Mr. Sheriff, I pray you let me and you make a way for my lady. And so he, making way before, I kissed my hand, and took my lady Giraldie by the hand, and led her out of the press to her chamber-door, and there made a most humble curtsey unto her. And after, I put out my hand to the rest of her gentlewomen, and first kissed it, and delivered them into their chamber also."[2]

After this, examinations took place, and the English "mass-mongers" were sent to prison. All this time the mass-sayer stood by the altar, and no one touched him. However, he gave some of the servants "singing cakes, wherewith I was offended with them for receiving the idolatrous bread."[3]

The affair was nearly over. The priest gently saluted, but the Recorder looked suddenly back, and

[1] Strype's "Annals," pt. 2, p. 27.
[2] *Ibid.* p. 28.
[3] *Ibid.*

saw him shaking his head, and mumbling something like "diable," or "male croix." "Let us depart," said Fleetwood, "for the priest doth curse." And so away.[1]

All the free denizens had submitted, and were allowed to depart; but there was one, Guarras, who would not go, nor leave the Sheriff.

Possibly a spy. For he was very civilly entreated after the uproar, and "Mr. Sheriff and I invited him to dinner," but "he departed back to hear out the aforesaid mass."[2]

The rest of the relation is of little value. There was great looseness in those days, even in the best houses, and there was a lack of dignity and decorum on the part of the city magistrates.

In 1580 the Recorder was made a Serjeant-at-Law.[3] The zeal and energy of the Serjeant were so well known that he was proscribed. The Roman Catholics had great hopes in 1580. They had doomed several of the Queen's ministers, and several staunch Protestants. "I have a bed[4]-roll of them here," said a priest, "who little know what is providing for them." Amongst the names appeared "Mr. Recorder." One A. M., to whom the priest communicated these news,

[1] Strype's "Annals," pt. 2, pp. 28, 29. [2] *Id.* p. 29.

[3] Dugd. "Chr. Ser.," p. 97; Mich. 22 Eliz.; Stow's "London," vol. ii. p. 242; Wood's "Athenæ.," by Bliss, vol. i. p. 598.

[4] Bede or bead.

well remembered that no one was named who had not the order of his death appointed, as by burning, hanging, or quartering, or the like.[1]

The Recorder's mode of passing sentence was quite equal to those who succeeded him. There was one Thomas Alfield, a jesuit priest, whose crime was bringing into the realm, and uttering a slanderous and lewd book against the Queen and the realm. In this volume was a justification of Campion and others. Having declared himself boldly in favour of his conduct, the jury found him guilty, and it fell to Mr. Fleetwood's office to pass judgment. He wondered that the prisoner's father, in King Henry's days, was an usher of Eton, and of a good religion, and yet that his son, who had passed through the same college, had thus misbehaved. Though, continued the judge, he was the first ever arraigned of felony, of any that passed through those colleges, for fifty years and more. He then contrasted the Pope with Cæsar. Cæsar was to be obeyed, not deposed, as the Pope told his presbyter. And Paul appealed to Cæsar, not to Peter, because he took Cæsar to be his lawful king. And so he gave the Jesuit over to the Sheriff for execution.[2] He also passed sentence upon Hasket, a wild enthusiast of 1591, who had two prophets, and insisted that they were moved by the Spirit. Hasket was executed, but one prophet

[1] Strype's "Annals," vol. ii. pt. 2, p. 359.

[2] *Id.* vol. iii. pt. 1, pp. 449—452. This was in 1585.

famished himself, and the other, possibly, to save his life, professed a sincere repentance.[1]

Seven years after this, however, his loyalty and religious zeal were not forgotten. Bulls from the Pope were extant in England in favour of pluralities and non-residences, and a very learned argument was delivered for the bull by Serjeant Walmesly,[2] and against the bull by Fleetwood. Could a bull, brief, or faculty granted by the See of Rome in the time of Mary to a British subject for enjoying many benefices, or being non-resident, be pleadable in the Queen's Courts? And judgment passed in the negative.[3]

We must now make an episode. In 1582, although Manwood, Chief Baron, is said to have offered large sums for the Chief Justiceship in Dyer's room,[4] (the patronage in those days was considerable) Edmund Anderson, Serjeant-at-Law, was appointed Chief of the Common Pleas. Fleetwood was an indefatigable jackal to the Lord Treasurer (Burleigh).

"On Saturday, in the morning," he writes, "my Lord Chancellor did a while stand at the Chancery Bar on the side of the hall." And soon after that the Justices of the Common Place[5] were set; his Lordship came to the Common Place, and there sat down,

[1] Strype's "Annals," vol. iv. p. 98.

[2] Afterwards a Judge, and in the time of the Queen.

[3] Strype's "Annals," vol. ii. pt. 1, p. 280.

[4] Foss's "Judges," vol. vi. p. 52. Manwood's "Forest Laws" is a Text-Book. There is a portrait of him in Serjeant's Inn.

[5] Pleas.

and all the Serjeants standing at the Bar; my Lord Chancellor called Serjeant Anderson by name, declared unto him Her Majesty's good liking and opinion of him," &c. And then the Chancellor went into the duties of a good justice. After which the Chancellor called him into the midst of the Court, and the Commission was read, the Serjeant kneeling. That done, his Lordship took the patent into his hand, and the oath was read by the Clerk. And the Chief Justice himself read the oath of supremacy and kissed the book. Then the Chancellor took him by the hand and placed him on the bench. "Father" Benloos, being ancient, put a short case. Fleetwood put the next, and very much, in his letter, applauded the new Chief.

But about the bribery. "My lord, under Benedicite," writes the Recorder: "there runneth in marvellous speed over all London, that greater sums of money were offered (to whom I know not) than I may well write of, by one of the Exchequer."[1] The letter goes on: "If true, it was not well; if not true, it was a scandal. At all events, he (Manwood) is grown into a greater discredit than may be in a short time easily forgotten." Then he says, that the Lord Treasurer, having heard of it, was the means of "keeping him from that cushion."

And he concludes: "Truly, my Lord, it was well done."

[1] Manwood.

Again, it was about the year 1582 when he made a celebrated civic speech to the Queen. A man named Blank was Lord Mayor, and on Sunday, May 6, was presented to Elizabeth at Richmond. He was graciously received, and knighted. The Queen herself was pleased with the speech of the Recorder, and with all around. Only some young gentlemen, "being more bold than well mannered, stood upon the carpet of the cloth of state, and did almost bear upon the cushion." Her Highness did not approve this, and so the Lord Chamberlain, the Vice-Chamberlain, and the gentlemen ushers came in for a share of displeasure.[1]

Fleetwood was a truly loyal Recorder. He loved the celebration of the Queen's birth-day. He rejoiced that all the bells of London did ring for joy. Great feasting. He had been bidden out to supper that night in six or seven places.[2]

He had, however, been accustomed to make these speeches upon State occasions. And a curious trait of his character was brought out when Cooper, Bishop of Lincoln, preached at St. Paul's Cross, in Lent, 1576. The text was: "Give an account of thy stewardship." The sermon was adapted for the congregation, amongst whom were many of the magistracy and persons in place and authority. Fleetwood was one. He was so affected with the discourse, that he resolved to forsake a speech he had prepared to "use" before the Queen

[1] Strype's "Annals," vol. iii. pt. 1, p. 212.

[2] "I am bid forth to supper." "There are my keys."—*Shylock to Jessica.*

in the next week, the Lord Mayor being to be present. He told the Lord Treasurer he meant to follow the matter the Bishop had taken in hand, not "in that very form," as he said, "but to that effect." He was for making the City officers to render "justam rationem dispensationis nostræ." And he hoped that the sermon, and his speech founded on it, would awake the corporate body from their "drowsy and negligent dealings," and do more good in that respect, than the "fifty weekly sermons, and the Easter sermons, yearly preached in every Mayor's time, either could or should do."[1]

It was by no means uncommon for the great lawyers in old times to be mixed up with ecclesiastical affairs. In 1571 he took an interest in a bill compelling the coming to church and receiving the holy communion. He was honest. He would not have penalties go to promoters, for they sought no reformation, but private gain. The next matter was the alteration of the Common Prayer, and the established ceremonies. Mr. Strickland, "an ancient gentleman, of hot zeal," made a prominent figure in this debate. Several speeches were made, and many supposed errors were discussed. But the Treasurer of the Household interposed the Queen's prerogative, and, probably, acquainted Her Majesty, for she took umbrage, and Strickland was sent for by the Privy Council, and required to attend upon them, and forbidden to enter

[1] Strype's "Annals; vol. ii. pt. 2, p. 36.

the house. Hereupon, a disturbance arose. Very shortly afterwards, the house wanted their member. Mr. Treasurer endeavoured, in vain, to allay the storm. Then Fleetwood, "a wise man," rose and advised, that they should be humble suitors to the Queen, and neither send for him nor demand him. This speech had its effect. The house abstained, and, on the next day, Mr. Strickland came to the house with the leave of the Council, and was named one of the Committees for considering the bill for coming to church and receiving the communion.[1]

The Recorder (and the celebrated Maynard followed the same course) was made a diocesan visitor. He was appointed by the Queen, amongst others, some of high rank, to visit Oxford, Lincoln, Peterborough, Coventry, and Lichfield. He was then a young man, and was called, "Fleetwood, a lawyer," and the Commission was dated July 2, 1559.[2] Very much later than this, he was in another Episcopal Commission.[3] And here, Aylmer, Bishop of London, complained of a want of sufficient support. "The Recorder, Mr. Fleetwood," said the Bishop, "seldom or never came amongst them.[4] He was also of the Ecclesiastical Commission in 1573, and acted with the Archbishop and the Bishop of Winchester against Aldrich, the

[1] Strype's "Annals," vol. ii. pt. 1, p. 95.
[2] *Id.* vol. i. pt. 1, p. 247.
[3] 1580.
[4] Strype's "Life of Aylmer," p. 61.

Master of Bene't College, Cambridge.[1] In 1586 he was again in a Commission at Lambeth, upon a charge against some Oxford preachers, that they would have all temporal causes decided by the seniors of the church; and that Her Majesty had not to deal in causes ecclesiastical.[2] Then, again, he had to abbreviate and explain a new Commission granted for the relief of the Fleet and King's Bench.[3]

The time had now come (in 1582) when, weary of his place, by reason of the toil and fatigue of it, and withal discouraged too,"[4] he applied to his "good friend," the Lord Treasurer, to be released from his office, and to receive the promotion of Queen's Serjeant. The letter is curious. "My singular good Lord, &c., —I never rest. And when I serve Her Majesty the best, then I am, for the most part, worst spoken of, and that many times in the Court. I have no man to defend me. And, as for my Lord Mayor, my chief head, I am driven every day to back him and his doings. My good Lord, for Christ's sake be such a mean for me, as that with credit I may be removed by Her Majesty from this intolerable toil. Certainly, I serve in a thankless soil. There is, as I learn, like to fall a room of the Queen's Sergeant. If your lordship

[1] "Strype's "Life of Archbishop Parker," vol. ii. pp. 272, 275. The whole of the proceedings appear in chapter xxvii. See also Strype's "Annals," vol. i.; vol. ii. pt. 2, p. 107; vol. iii. pt. 1, pp. 224, 225. Cawdry's Case, Strype's "Life of Aylmer," p. 80.

[2] Strype's "Annals," vol. iii. pt. 1, p. 658.

[3] *Ibid.*

[4] It is to be feared, that he was occasionally too violent.

please to help me to one of these rooms, assure your honour that I will do Her Majesty as painful service as six of them shall do: help me, my good Lord, in my humble suit; and I will, God willing, set down for your Lordship such a book of the law, as your Lordship will like of. This Easter even, 1582. Bacon House."[1]

We have mentioned that this eminent man was elected Recorder of London in 1571. It is a matter of authentic history, and one not very creditable to Sir Edward Coke, that Fleetwood, just before his death, was virtually ousted from his office by that matchless lawyer. It is well known that when Coke lay on his death-bed, his will and all his MS. papers were seized, by order of the Privy Council of Charles the First. "His comment upon Littleton, and the history of his life, written with his own hand,"[2] were thus abstracted. No restoration was made of these documents till seven years afterwards, when the King, upon the representation of one of Lord Coke's sons, ordered them to be given up. The *vade mecum*, however, was not recovered till a comparatively very recent date. Here will be found the story of the struggle for the municipal appointment. The following is a translation of the Latin, the book being written in that language:[3]

[1] This could not have been his house in Noble Street.—Strype's *Annals*, vol. iii. pt. 1, p. 217.

[2] Coke's "Detection," 1696, vol. ii. p. 107.

[3] Fo. 13.

"RECORDER OF LONDON."

"I was elected Recorder of the city of London on the 14th of October, 1591,[1] and in the 33rd year of the reign of Queen Elizabeth, but, by the great importunity and labour of William Fletewood, Serjeant-at-Law, the late Recorder,[2] he himself held his place, altho' I was elected with the unanimous consent of the whole Court of Aldermen, without my knowledge; but afterwards, on the 7th of January, in the 34th year of Elizabeth, and in the year of our Lord 1591, at my house in Huntingfield, I received a letter from the Mayor and all the Senate (or Corporation)[3] of London, that the said William Fleetwood had surrendered the aforesaid office, and that, with unanimous consent, no one to the contrary,[4] they elected me Recorder of the City aforesaid; and afterwards, on the 14th day of the same month, I was sworn, and accepted the office of Recorder, at Guildhall, before the Mayor and Senate."[5]

Nevertheless, Serjeant Fleetwood was consoled by the appointment of Queen's Serjeant, just about this time.[6]

This eminent lawyer, died on the 28th of February,

[1] *i. e.* 1590, 1591.

[2] It is strange that nine years previously he had urged the Lord Treasurer to obtain his quietus from the Recordership, and to obtain for him the rank of Queen's Serjeant. We have already related this apparently inconsistent behaviour. But Coke was never very popular.

[3] Senatus. [4] Contradicente.

[5] "Collectanea Topographica et Genealog." vol. vi. pp. 108, 114, citing "Harl. Misc." Nos. 66, 87, pt. 1.

[6] Stow's "London," vol. ii. p. 242. 27 Jan. 34 Elizabeth. Dugdale's "Chr. Ser." p. 99; Wood's "Athenæ," by Bliss, vol. i. p. 598.

1594, in a house newly built by him in Noble Street, Aldersgate Street, where he mostly lived, and he was buried in the Church of Great Missenden, Bucks.[1] Some writers call him Sir William. This is a mistake. He was never knighted, and was probably confounded with his son, Sir William Fleetwood.

On the 7th of March, 1594, administration was granted to the widow, Marianna, daughter of John Barley, of Kinsey, Bucks. He left two sons and at least two daughters.[2] Sir William Fleetwood succeeded him in the estate at Missenden; Sir Thomas Fleetwood was Attorney-General to Prince Henry; one daughter was married to Sir David Foulis, knight and baronet, and another to Sir Thomas Chaloner (son of the learned Sir Thomas Chaloner) tutor to the prince. "I made acquayntance," says Dr. Dee in 1593, "with Syr Thomas Chaloner, knight, who married Sergeant Fletewood's dowghter; Sir Thomas Webbes was the means."[3]

Author, antiquary, orator, and lawyer, he distinguished himself in each of those professions. "He was," says Wood, "of a marvellous, merry, and pleasant conceit."[4] With regard to ancient matters, he wrote: "Observations upon the Eyre of Pickering," Lambert's "Archeion," &c.

[1] Wood, vol. i. p. 599.

[2] A full account of the family will be found in Noble's "Memoirs of the Cromwell Family," vol. ii. p. 349.

[3] Dr. Dee's "Diary," p. 44. [Camden Society.]

[4] Wood, vol. i. p. 598.

His law works were: "A Treatice of the Justices of Peace," in the[1] Preface to which he mentions a Treatise *De Pace Ecclesiæ*, together with Instructions in what manner Statutes should be expounded; "A Table to Plowden's 'Reports;'"[2] four volumes of "Common Law Places and Reports," formerly in his own possession, and probably collected by himself.[3]

"Observacions sur Littleton," MS. penes me.[4] "Lectura Gulielmi Fletewode."[5] On the first of the Common-Place Books he wrote thus:—

> "Huic quicunque libro dominabere post mea fata,
> Fleetwooddo eternum dicito, quæso, vale."[6]

This throws light upon the fact that one only of his works was published in his lifetime. He also wrote: "Table to the Annals or Year Book of Edward the Fifth, Richard the Third," &c.[7]

Several political discourses are likewise attributed to him.[8] His Latin poetry is rather above the dog Latin of historians. "He wrote some commendatory lines prefixed to Lambarde's 'Perambulation of Kent.'[9] And some verses in praise of his deceased son-in-law,

[1] MS. Harl. 72, fol. 63.
[2] London, 1658. Wood, vol. i. p. 599.
[3] Wood by Bliss, vol. i. p. 600; Harl. MSS. 5153—5156.
[4] Baker; Wood, as above, p. 599; Harl. MSS. 5225.
[5] Harl. MSS. 5220. [6] Wood, p. 600.
[7] Otherwise Elenchus Annalium Regum. Edward the Fifth, Richard the Third, Henry the Seventh and Henry the Eighth. London, 1579 and 1597. Dedicated to Lord Chancellor Bromley. Wood, vol. i. p. 599.
[8] Wood, vol. i. p. 599.
[9] *Id.* p. 415. (1576). Wood, vol. i. p. 600.

Sir Thomas Chaloner, tutor to Prince Henry, are given in full by Bliss, in his edition of Wood." They begin thus:—[1]

"Gulielmus Fleetwoodus,
Recordator Londinensis.
Pensa notant Chalonere, tuos finita labores,
Magnanimus veluti noscitur ungue leo."[2]

And these are the last lines:—

"Chare mihi, Chalonere, vale, si fata dedissent,
Dignus eras Pylii vivere, sæcla senis."[3]

The thought may be pretty, but the grammar and Latin are not exactly commendable. There was also an oration by him at Guildhall, before the Lord Mayor.

But a very valuable document was in due time discovered, and made abundant use of by Strype,[4] and, no doubt by others; that was a Diary. To this we have frequently referred, in the course of the Life. He used to set down minutes of what passed at the Sessions, or otherwise, sending them customarily to the Lord Treasurer.[5]

In Baines's "Lancashire," his works are thus briefly summed up: MS. Duc. Lancastriæ:—

1. "Annalium tam regum Edward the Fifth, Richard the Third, and Henry the Sixth, quam Henry the Seventh."
2. "A Table of the Reports of Edmund Plowden."
3. "The Office of a Justice of Peace."[6]

[1] Wood, vol. i. p. 600. [2] *Ibid.* [3] *Ibid.*
[4] Strype's "Annals," vol. iii. pt. 1, p. 658. [5] *Ibid.*
[6] Vol. iii. p. 440.—Nichol's *Literary Illustrations*, vol. iii. p. 367.

However, in another volume, Baines gives the MS. more at large. "In the British Museum there is a MS. entitled Ducatus Lancastriæ,[1] on the subject of the honours and dignities of the dukedom of Lancaster, written in the age of Elizabeth, and attributed to Sir William Fleetwood, Recorder of London, one of the worthies of Lancashire, which supplies a hiatus in the early period of the history of Lancaster, wherein the learned civilian scrutinises the claims of Edward Crouchback to the title of Earl of Lancaster, with as little ceremony as he was accustomed to use in scrutinising the representations of suitors in the Recorder's Court."[2] There is, likewise, in the Bodleian Library a MS. by this eminent man entitled, "A brief Treatise or Discourse of the Validitie or Strengthe of the Commission of Bridewell," by Mr. Serjeant Fleetwood, Serjeant-at-Law.

The conclusion is curious. "And hens I doe conclude to you the whole matter: That the Commissioners of Bridewell would be well considered of by the learned counsell of the citie, forr I doe not think the contwary, but that they bee learned; that by their great knowledge in the law are well able, either in a Quo Warranto, or any action brought, to defend the law. And thus also do I conclude," says Oliver Acton, who purchased this rare MS.; viz., "That the learned Serjeant, having so well and strongly argued

[1] "Harl. Col.," p. 2077. [2] Vol. i. p. 195.

against the validity or strength of the Commission of Bridewell, he had a deep ironical meaning in concluding as he has done.

"Oliver Acton, Steward of the same Bridewell Hospital, London, and of the Society of the Inner Temple, citizen and goldsmith, chosen as aforesaid, 4th April, 1718."

NOTE.—11 March, 1733-4. Bought this book for 2s. 6d. at the sale "of the MSS. of Charles Rawlinson, Esq., deceased.—*Vide* Catalogue 16th, p. 35, No. 475." "O. Acton."

We must not forget the Hargrave MSS. in the British Museum. There is a small, thick volume, in 8vo., upon paper, consisting of "Titles of Law, Common-Place."[1] At the end is written "Memorandum; that I, William Fletewood, Serjeant at the Law, and Recorder of the Citie of London, did collect and gather into titles this booke in A°. 32 Elizabethæ Reginæ in Anno Domini, 1590."[2]

Another MS. concerning the old laws and customs of the City of London, &c., will be found in the same collection.[3]

And there is another respecting standard weights and measures.[4] And one on "the original and beginning of Courts in England."[5]

[1] Pleas. [2] No. 409 (81 a). [3] No. 419 (82 d).
[4] 26th October, 1583, fol. 344 (6). [5] Hargrave's MSS.

The "Itinerarium ad Windsor" is, unfortunately, imperfect.[1]

With regard to his property, he had a considerable estate at Ealing.[2] It seems, likewise, that he purchased Missenden Abbey, in Buckinghamshire, and made it his residence.[3] And he had also a house in London, as we have just seen, and where he died.[4]

[1] Harl. MSS. 168, fol. 1.—*Notes and Queries*, vol. i., 11, p. 341.

[2] Lysons's "London," vol. ii. p. 234.

[3] Lysons's "Magn. Brit.," vol. i. p. 607, where he is called Sir William Fleetwood, Recorder of London; an antiquary and historian.

[4] Wood's "Athenæ," Bliss, vol. i. p. 599.

SIR WILLIAM METHOLD.

Serjeant-at-Law, 1611—Lord Chief Baron of the Exchequer in Ireland.

[The Author is indebted to Edmond Chester Waters, Esq., of Upton Park, near Poole, for the manuscript portion of this biography.]

It is difficult to trace the private and domestic histories of men. If circumstances compel the introduction of some to the world as persons of renown, there are always those at hand ready to supply all information as to the birth, death, fortune, and the incidents of life of such men. But there have been many who have lived and flourished, and yet have been forgotten. There may have been Serjeants of note in their day whose merits have not been recorded, and who have thus become a prey to forgetfulness. "*Vixere fortes ante Agamemnona, Multi.*"[1]

Many eminent brothers of the coif lived doubtless before Sir William Methold, but of whom tradition tells no tale, unless it be a mere name in some old legal chronicle, or the page of Dugdale. There were in those days no Evelyns, no busy Pepys's, no Luttrells to rescue these ancients from oblivion.

"Sed omnes illacrymabiles,
Urgentur, ignotique longa
Nocte, carent quia vate sacro."

They needed a chronicler to preserve their fame. Some particulars of Lord Chief Baron Methold's life have been collected here, and if any question should be asked as to our notice of him, it will be borne in mind that he was one of the Serjeants of old, having his nativity in the second year of Queen Elizabeth. It was not a mean career to have attained the dignity of Serjeant, the honour of knighthood, and the Chief Barony of the Irish Exchequer.

William Methold, Methwould, or Methwold,[1] was born about 1560,[2] probably at his father's house, South Pickenham, Norfolk. He was the eldest son. His mother was daughter of George Alington, Esq., of Swinhope, Lincolnshire (brother to Sir Giles Alington, Knight) by Anne, sister of the celebrated Sir John Cheke.[3] His father, William, was the second son of William Methold, of Langford and South Pickenham, Norfolk. He was descended from one of the most ancient families in that county.[4]

[1] Or Methelwold. The orthography of this name has been singularly perverse. Thus, the will of Sir William's nephew, made in 1653, begins: "I, William Methwold," but the signature is "William Methold." So the Kensington Registers of the children almost alternately—MS.

[2] The visitation of Norfolk, in 1563, mentions his parents as then having only two children, William and Thomas.

[3] This lady died on the 15th of February, 1612, in Aldersgate Street. Amongst the mourners at her funeral, Mr. Serjeant Methold and Mrs. Methold, with Mr. and Mrs. Potts, are mentioned.—*Coll. Top. et Geneal.* vol. iv. pp. 382—384.

[4] In 1274 John Methelwold, Lord of Langford, claimed free warren, "but could produce no evidence, and therefore John Buck and Theobald his son, whom he had prosecuted for hunting, were discharged;" Blomefield's "Norfolk," 8vo. vol. ii. p. 371. And as to the Methwold family, see *Id.* vol. vi. pp. 21, 29, 70, 109.

William Methold, of Langford, died 29th of August, 1586, at the age of fifty-six, leaving three sons and four daughters. A gray marble stone with his arms engraved and his epitaph inscribed on a brass plate still remains on the pavement of the chancel in South Pickenham Church.[1] On the 20th of February, 1581 (23 Elizabeth) Mr. Methold was admitted a member of Lincoln's Inn, as William Methwold, of Norfolk. In the 6th year of James the First, 1608, he was Lent reader of his inn, and a bencher.[2] In 1611 he was made a Serjeant.[3] In 1612, upon his appointment to be Chief Baron of the Exchequer in Ireland, he was knighted by King James. He was subsequently promoted to the Chief Justiceship of the King's Bench.[4]

The Chief Justice died on the 7th of March, 1620, and was buried in Christchurch, Dublin.[5] His wife was Margaret, daughter of John Southwell, Esq., of Burham, Suffolk, ancestor of the Lords Southwell, of Ireland. By her he had an only daughter, Elizabeth, who on the 18th of July, 1608, married at Dagenham, Essex, Thomas Potts, Esq., Master of the Harehounds to King James and Charles the First.[6]

[1] Blomefield's "Norfolk," 8vo. vol. vi. p. 73.

[2] Dugdale's "Orig. Jur." pp. 254, 263. [3] *Id.* Chronica Series, p. 103.

[4] Lodge's "Peerage of Ireland," 1789, vol. vi. p. 13. And on April 10, 17 Jac. I., he was a Joint Keeper of the Great Seal.—Smythe's *Law Officers of Ireland*, p. 217.

[5] MS. citing Funeral Certificates in Ireland. Add. MS. in Brit. Mus. 4793, p. 125.

[6] MS. Lodge's "Peerage of Ireland," 1789, vol. vi. p. 14. This gentleman was a native of Scotland, but had a grant of denization from James the First.

Dame Methold survived her husband, and married the Honourable Sir Thomas Rotherham, Knight, one of the Privy Council of Ireland. She died December 23, 1640, in the lifetime of her second husband, and was buried in Christchurch, Dublin, on the 26th.[1] Her funeral certificate describes the Judge as Sir William Methold, L.C.B., &c., and one of the Privy Council of Ireland.[2]

In June, 1624, administration was granted to Elizabeth Potts, Sir William's daughter, he having died intestate.

The arms of the Methold family were azure, six escallops, or.

Sir William had no son, but his nephew, William, was in the East India Company's service as a factor in 1615.[3] "He is well known as the first European visiter to the diamond mines of Golconda.[4] His narrative was printed in 1626, in the fifth volume of Purchas's 'Pilgrims,' pp. 993—1007, and Purchas, in the preface, passes a high eulogium on William Methold.[5]" This nephew was very successful in life. He died, possessed of other manors than South

His name occurs in the "Domestic Calendars," 1603—1628. Charles the First granted him a pension of £100 per annum, as one of his father's old servants, and continued him in his office. His name appears for the last time, 28th of September 1635, as receiving £120 for his quarter's salary as Master of the Harriers and Beagles.—MS.

[1] Lodge, as above.

[2] MS. citing Add. MS. in Brit. Mus. 4820, p. 271.

[3] MS. citing *Calendars, Colonial.*

[4] MS. citing *Barthius de Gemmis.*

[5] MS.

Pickenham, on the 5th of March, 1653, at his mansion, Hale House, Kensington, "which was long the seat of his descendants.[1] He was founder of the almshouses still standing near the site of Hale House, called of late years Cromwell House, which was purchased and removed by the Royal Commissioners of 1851."[2]

There are still "Metholds" in Norfolk.

[1] MS. [2] MS.

NICHOLAS BARHAM.

Serjeant-at-Law 1567, King's Serjeant 1573.

NICHOLAS BARHAM was a son of Richard Barham, of Wadhurst, Sussex, Esq., who was descended from the Barhams, Lords of Feston, Kent, derived from Robert de Barham, son of Richard Fitz-Urse, and brother of the murderer of Thomas â Becket. . . .

Nicholas was made a Serjeant in 1567, and a King's Serjeant in 1573.[1] He was on the Oxford Circuit, and was engaged for the Crown in important State prosecutions in the reign of Elizabeth.

He is reputed to have been a man of great talent; but he died in 1577 on his Circuit. He was Recorder of Maidstone, and M.P. for that town.

His wife, who survived him, was Mary, daughter of John Holt, Co. Chester, Esq., and he left one son, Arthur.

His will was dated 19 Elizabeth, and in it he mentions a piece of silver plate, which was given him by the Earl of Leicester.

He bought the Manor of Onillington, Kent, in the

[1] Dugdale's "Chr. Ser.," pp. 93, 95.

fourth year of the Queen, and resided at Chillington House, Maidstone.[1] The son, Arthur, lived in the house for some time; but sold it, and left that part of the country.[2]

His arms were: Argent on a fess, gules, between three bears passant, sable, muzzled or, a fleur-de-lis, between two martlets of the third.[3]

[1] Now occupied by the Kent Archæological Society.

[2] The pedigree of his family will be found in the "Visitation of Kent," and amongst the MSS. of the British Museum.

[3] The same arms are on a signet ring, recently found, and in the possession of W. T. Lightfoot, Assistant Secretary to the Kent "Archæological Society," to whom the author is indebted for these notes.

SIR JOHN HELE.

Serjeant-at-Law 1594, Queen's Serjeant 1602, King's Serjeant 1603.

THE name of Hele was so prolific in Devonshire as to prevent Prince from being able to fix with certainty the place of this Serjeant's birth. The family was knightly and gentle.[1]

Prince tells a strange story, that when Matthew Heale, of Holwell, was High Sheriff of Devon in 1560, all the Grand Jury answered to the name of Heales. One of them was called as "Heales of Wisdom," so that the Judge exclaimed, "They must all have descended from Wisdom, in that they had acquired such considerable fortunes."[2]

John Hele was the fourth son of Nicholas Hele, of South Hele,[3] and was born in the year 1565.

He was entered at the Inner temple, and became Lent Reader in 33 Elizabeth.[4] On June 9, 1593, he was elected Recorder of Exeter,[5] and held the office for twelve years.

[1] See the "Pedigree of the Family, Prince's Worthies," p. 484.
[2] "Worthies," p. 487.
[3] *Id.* "Add. Notes," p. 489.
[4] 1591.
[5] Oliver's "Exeter," p. 236.

In November, 1594, he was called to the degree of Serjeant,[1] and on the 16th of May, 1602, became the Queen's principal Serjeant,[2] or rather one of her Serjeants.[3] As soon as King James arrived, he was gratified by a patent to be his Serjeant likewise,[4] and was knighted at Whitehall during the coronation.[5]

Gratified with these honours, it was not to be wondered at that he was disposed to magnify the royal prerogative.

He had, however, previously given great displeasure to the House towards the close of Elizabeth's reign, by the following speech upon granting a supply:—

"Mr. Speaker: I marvel much that the House will stand upon granting a subsidy, in the form of payment, when all that we have is Her Majesty's; and she may, lawfully, at her pleasure, take it from us; yea, she hath as much right to all our lands and goods as to any revenues of her Crown." At hearing this, the House hemmed and laughed, and talked. "Well, all your hemming shall not put me out of countenance," said the Serjeant. Upon this the Speaker rose, and said: "It is a great disorder that this should be used, for it is the evident use for every man to be silent, where anyone speaketh, and he that is speaking should be suffered to deliver his mind without interruption." So the Serjeant proceeded; but the House hemmed

[1] Dugdale's "Chr. Ser." p. 99.
[2] Prince, p. 485.
[3] Dugdale, p. 101.
[4] *Ibid.*
[5] Prince, p. 485.

again, and he sat down. For in the last speech he referred to Henry the Third, John, and even to Stephen, and this the House would not endure.[1]

Sir John Hele died on the 4th of June, 1608, in the 66th year of his age, and he was buried in the Church of Wemberry, Devon. He married Mary, daughter and co-heiress of Ellis Warwick, of Batsborough, and had nine sons and one daughter. Sir Warwick was the eldest. He was Sheriff of Devon in 1618 and 1619. Sir Francis was another son.[2] A monument representing him and his children was erected to his honour, upon which an indifferent Latin epitaph was inscribed.[3]

Prince, the author of the "Worthies," is, however, fond of an obscure hint. Amidst a burthen of praise, he intimates, that the Serjeant could not escape the envy of the world, "which follows virtue as close as the shadow doth the body." If, therefore, some have endeavoured to load him with uncharitable reflections, that of Solomon may excuse him; "Who can stand before envy?"[4] This doubtful remark either relates to the settlement of Elisæus Hele, a relation, of property towards "pious uses," or to far heavier charges contained in an official memorial laid before Queen Eliza-

[1] Prince, ed. 1810; "Add. Notes," p. 498.

[2] Prince, p. 486. His character, as a lawyer, is very highly celebrated by that writer. *Ibid.*

[3] "Westcote's "View of Devonshire in 1630," by Oliver & Jones, p. 534. And see *Id.* pp. 533—535, as to the Heles.

[4] Prince, p. 486.

beth, when Sir John aspired to be Master of the Rolls.

In an official memorial, laying before Elizabeth the list of Hele's disqualifications for the Mastership of the Rolls, Lord Ellesmere observed of that worthy:—

"1. He is charged to have been long a grypinge and excessive usurer. Against such persons the Chancerye doeth gyue remedye, which yt is not lykelye he will doe, beinge hym self so great and so common an offender in the same kynde. 2. He is charged to have bene a most gredye and insatiable taker of fees, and (which is most odious) a notorious and common ambi-dexter, takinge fee on both sydes, to the great scandall of his place and profession. . . . He is noted to be a great drunkarde, and in his drunkennesse not onlye to have commonly used quarrelynge and brawlenge words, but sometyme blowes also; and that at a common ordynarye, a vice ille beseeminge a Serjeant, but in a Judge or publicke Magistrate intollerable."[1]

At this time the Lord Keeper owed the Serjeant £400, and Sir John Hele felt that as Lord Ellesmere retained the Mastership of the Rolls from 1596 to 1600, instead of resigning it to him, as were his

[1] Jeaffreson's "Lawyers," vol. ii. p. 95. The author strongly adopts this opinion of Lord Ellesmere, *Ibid.*; but cites no further authority. It is quite in contrast with the character given of Sir John by Prince. No doubt envy was prevalent in those as in other days; but it is to be feared that there must have been some foundation for the Memorial. It should be remembered that two of his sons were knighted.

hopes, he was indebted to the Lord Keeper for his disappointment. Hence the following letter:—

"*To the Ryght hn. the Lo. Keeper of the Greate Seale of Englande, &c.*—

"It hath been my spetiall desyre to have your Lo. holde a good opynion of me. I have dealte, as it became me, in all thinges. What the cause of your sudden mislike with me is I cannot gesse, for sure I am I have ever respected and dealte with you as it became me. You knowe howe I came fyrste to entertaine the hope of the Rolles, and have followed your owne derections. I fynde nowe that my hope, throughe your hard conceite againste me, is desperate. I shall, therefore, praie your Lo. to delyver to this bearer my bandes, and at your Lo. pleasure to sende me the 400 li. you owe me. I shall humblie entreate your Lo. to use me as you doe the meaneste of my brethren.

"Thus resting humblie yours,

"Your Lp.'s in all humblenes,

"JOHN HELE."[1]

"From Serjeantes' Inne, the 14th of November, 1600."

Documents preserved at Bridgwater House show

[1] "The Egerton Papers," p. 188. It was supposed that Sir John was occasionally intoxicated, and that this failing was the cause of his being kept back from a judicial office.

the correctness of the imputation—that this Serjeant was not, at all times, a sober counsellor. He continued to maintain his idea, and not untruly that Lord Ellesmere would not consent to his promotion. So, in the following petition he addresses himself to King James. He had been lending money to Lord Cobham, and in 1603 he presented the following petition to the Sovereign:—

"[The subsequent petition was, doubtless, sent by the King to the Lord Chancellor. It relates to some suit instituted by Serjeant Hele to recover from the heirs of 'the late Lord Cobham,' who died 1596, the sum of £4,666 13s. 4d. The note at the end, in the same handwriting as the petition, was to have been signed by the King, had His Majesty thought fit to do so, instead of remitting the question to Lord Ellesmere. It will be seen from various parts of the present collection that Serjeant Hele bore the Lord Chancellor no good will, and that he conceived his Lordship had taken a distaste against him from some misinformation. Certain documents preserved at Bridgewater House afford evidence that one of the imputations against Serjeant Hele was, that he was in habits of intoxication, and consequently unfit for judicial duities, to which, from his standing in the profession, he naturally aspired].[1]

[1] "The Egerton Papers." p. 399.

" ' *To the King's moste excellent Ma^tie., the worthiest and my most gratious Soveraigne—*

" ' The late Lo. Cobham owed me 4,666 li. 13s. 4d. It is saide that my Attorney hath erred in his proceedings. His aunswere is, that he hath proceeded by thadvise of the Treasurer of that office, according to his directions, which he hath under his hand, and according to manye 1000 presidents, used 40 yeres laste paste, and more.

" ' It is enforced that if his proceedings be undue, the same hath byne done by my meanes.

" ' Thattorney, being exauyned by your Ma^ties learned Councell, hath put under his hand that my dyrections to hym were to deale directlie and justlie, and by thadvise of the Treasurer of thoffice, to whome yt doth apperteyne, and yet sythence, yt seemeth, he layes some faulte on me.

" ' I have served our late Queene and your Ma^tie as a publique majestrate, at the leaste as a justice of the peace, 30 yeeres and more. In all thatt tyme never touched with anye cryme: what my desyres have byne to advaunce your Ma^ties undoubted title, espetiallie in the latter tyme of the late Queene, is well knowne. I protest to God and to your Ma^tie I am innocent of anie undue course. Since the last hearing of this cause before your Ma^ties Privie Councell upon the revolte of my attorney, who nowe denyes, yt is bruted underhand that I have dealte indirectlie, that I am deepelie fyned, that I shall loose my just dett,

my profession and practize cleane taken from me, with imprisonment.

"'These thinges, most sacred Kinge exceedinglie greive me. I humblie prostrate my selfe, the debt and all that I have, to your Ma^ties feete, and if your Ma^ties will vouchsaufe to heare the cause concerning me (which is my greatest desyre), whatsoever your Ma^tie shall thinke to be a faulte I will yielde unto yt, and to such punishment as your Ma^tie shall impose upon me. If your Ma^tie shall not vouchsaufe the paynes, that yt will please your Ma^tie to referre yt to the Judges, being matter in lawe, and that they maye report wheter I have erred or not, and wherein, which if I have done I desire noe favour, and if your Ma^tie shall thinke me fitte to doe you anie service, this scandall woulde be taken from me.

"'Your Ma^ties Vassal and true subjecte,

"'JOHN HELE.'[1]

"'Our pleasure is, that our Judges and Barons of Th exchequer, or the most of them, examyn and repoarte unto us whether our Serjeant be to be touched with anie undue and undirecte practize, and whether they shall fynde anie cause that he shoulde not be satisfied his dete, and so we shal be resolved whether he be fytt to serve us or noe, and in the meane tyme all thinges to staie as now yt is. 24th Februarie, 1603.'"[1 2]

[1] "The Egerton Papers" (Collier), p. 391. [2] *Ibid.*

Serjeant Hele's Suit.

[It is probable that the following letter refers to the decision of the suit against Serjeant Hele, in which, as appears by a previous document (p. 391), he sought to recover £4,666 13s. 4d. from the heirs of the late Lord Cobham.][1]

["*To the right honourable my verye Lo. the Lo. Ellesmere, Lo. Chaunceller of England.*]

"Right Honourable,

"I proteste unto God that ever synce I knewe you did trulie desyre your Lo. fryndshipp and favor: The contrary conceite hath disquieted me more than the order againste me. If your Lo. wilbe pleased to remove that opynion, I will acknowledge my selfe moste bounde unto you. Thus with remembrance of my humble duetye,

"Your Lo. in all Service

"John Hele.

"Serjents Inne, 5 January, 1604."[2]

Sir John married Margret, a daughter of Ellis Warwick, of Batsborow. By this lady he had eight sons, two of whom were knighted, and one daughter. The eldest Sir Warwick, was High Sheriff of Devon in the 17th year of James the First.[3] . . . . .

The Serjeant's cousin was the famous Elizæus, who gave his estate to pious uses.[4] He was a lawyer of

[1] "The Egerton Papers," p. 399. [2] *Ibid.*

[3] Prince, p. 486. [4] He was called "Pious Uses Hele."

eminence, and Treasurer of the Inner Temple. He was also Lent and Autumn Reader of his Inn. The settlement of his property for these charitable purposes contained, amongst the names of other trustees, that of the famous Maynard.[1] We have related, in the life of that great Serjeant, the manner by which he nobly carried out the intentions of the benefactor.[2]

Prince, nevertheless, would insinuate that the estate was not entirely settled to the pious uses designed. His language is suspicious. "What remains of this great estate undisposed of, I know not; only this is certain (if any such there be) it becomes all those who are immediately concerned therein to enquire, lest what shall thus stick to their fingers, should prove like the gobbet of flesh the eagle lurched from the altar, which had a live coal adhering to it, that burnt up her nest and her young together."[3]

Mr. Prince complains of the frugal memorial erected to Elizæus Hele, after all his munificence. He died at Exeter, on the 11th of January 1635, aged seventy and upwards, and lies buried in the vestry of the Cathedral, under a "plain mean stone." "In indignation whereof," says Prince, "may I apply the words of the poet:—

> 'Marmorco tumulo Licinus jacet at Cato parvo;
> Pompeius nullo.'"

There is, however, a short inscription, with the coat of arms. An equally plain tomb records the death of his second wife, who died very little more than six

[1] Prince, p. 487. [2] "Life of Maynard." [3] Prince, p. 488.

months after him.[1] The author of the additional notes to Prince's "Worthies," declines to give any opinion upon the imputation thrown out, contenting himself with giving a statement of the foundation and present condition of the charity.[2]

This eminent counsellor left a considerable property, amassed, in a great measure, by his skill and judgment in his profession. His buildings, lands, and money, amounted to above £100,000. He bestowed a good portion in charity to the poor, settling two manors upon the town of Plymouth, near his dwelling. He founded there, says Prince, an hospital for about twenty boys, and endowed it for their maintenance and education till they could be bound to trades.[3] But the author of the "Additional Notes," says that this must be a mistake, and that the settlement was confounded with that made by the trustees of the will of Elizæus Hele.[4] He bought an estate in Wemberry, four miles east of Plymouth, where he built a mansion, the cost of which, according to Prince, "could not be so little as £20,000." The gate-house, leading to it, was fit for the entertainment of a large and "gentile" family. The place seems to have been a cell, belonging to the priory of Plympton. It was bought at the dissolution by a Mr. Rider, and sold by his grandson to Serjeant Hele, who of an old monkish *dorter*[5] made it a magnificent

[1] Prince, p. 488.

[2] *Id.* ed. 1810; "Additional Notes," p. 490.

[3] Prince, p. 485.

[4] *Id.* ed. 1820; "Additional Notes," p. 490.

[5] "Dormer," a sleeping place, a word well known in the country. So, "*Dortour*," "Ivanhoe." Robert Cadell, Edinburgh, 1841, p. 284.

edifice.[1] Amongst other delights lavished upon this habitation, a park well stocked with fallow deer is mentioned, whose reflection, as they were grazing, might be seen in the marble clouds, through the casements of the chamber chimnies. In the dining-room was a rich and curious chimney piece, valued at £500, containing the representation of two armies drawn up in battalia, all in polished marble, done after the life with such exactness, that the very nails in the horse-shoes were not omitted.[2] Another wonder of this place was a large pond, strongly walled and gated. When the flood tide came, the gate opened of itself, and numerous fish of many sorts were enclosed. At ebb, the water shut the gate, so that the fish remained for the use of the house.[3]

Wembury went out of the family, and subsequently changed hands many times. It was first bought by the Duke of Albemarle, and, after becoming the property of several owners, came by marriage to Lord Camden, who parted with it to Mr. Lockyer, of Plymouth.[4]

The Manor of Shirford, in Knighton Hundred, Warwickshire, came to Sir John Hele with a very curious story attached to it. It belonged to Mr. Smyth, who detected and punished his father's murderers with great zeal and ability. Richard Smyth was his son, and had, by his first wife, one daughter,

[1] Prince, p. 485, citing Risdon's "Survey of Devon," in Wemb. MS.

[2] *Id.*

[3] Prince's "Worthies," p. 485. See also Carew's "Survey of Cornwall," book II. p. 104.

[4] Prince's "Additional Notes," ed. 1810, p. 490.

Margaret. Doubting whether he should have issue male, he treated with Sir John Littleton, of Frankley, Worcestershire, for a marriage between Margaret and William, the third son of Sir John. The settlement of all his lands was to be upon this couple and their issue, and, for lack of children, to his own right heirs. The writings were drawn, and were entrusted to Sir John for the purpose of engrossment. A day being appointed for sealing, a grand entertainment was provided at Frankley, and the deeds were produced in order to be read. At the moment, "and before they came to the uses, stept in Sir John's keeper in a sweat, and told them, that there were a brace of bucks at lair in the parks, which carryed a glass in their tails for Mr. Smyth's dogs to look in (for he loved coursing well, and had his greyhounds there) but if they made not hast, these market people, who passed through the park, would undoubtedly rouse them. Thereupon, Sir John Littleton earnestly moved Mr. Smyth to seal the writings without further reading; protesting that they were according to the draughts he had seen, and without any alteration. Which bold asseverations, putting him out of all suspicion of sinister dealing, caused him forthwith to seal them, and to go into the park.

"Hereupon the two children (for they were not more than IX. years old a-piece) were marryed together, and lived in the house with Sir John."

In about six years the young man died by a fall from his horse, and Mr. Smyth then wished to remove his daughter. But it was Sir John's wish to marry

her to his second son, and he, consequently, refused to deliver her up.

And now the fraud appeared. For, instead of the provision in the deeds that these lands were to revert, as agreed, to Mr. Smyth, they disclosed the reversion to the right heirs of the lad who was killed, and they were represented by *Gilbert Littleton*, the eldest son. There had, naturally enough, been a quarrel between Sir John and Mr. Smyth, and the end was, that the widow fell into the hands of that George, the second son, Gilbert having the estate. Lawsuits were commenced between the families, and, probably, the fraudulent documents were set aside. But the owner of Shirford Manor was attainted for adhering to the Earl of Essex, and so the whole came to the Crown. But King James, upon petition, restored the property to the widow of one of the Littletons. But she was so apprehensive of further lawsuits with the family of Smyth, for the original possessor had died in prison, that "*she sold them away to Serjeant Hele, a great lawyer.*"

Hele was suspicious in his turn, and disposed of the lands to his five sons, Sir Warwick, Sir Francis, Nicholas, Walter, and George. "But such is the fate," says Dugdale, "that follows these possessions, that, for want of a public adversary, these brothers are now at suit amongst themselves for them."[1]

[1] Dugdale's "Warwickshire," vol. i. p. 56.

SIR JOHN DAVYS.

Serjeant-at-Law, 1606—King's Serjeant, 1612.

JOHN *Davys* (for that is probably the correct spelling of a name subject to many changes), was born about 1569 or 1570 at Chisgrove, in the parish of Tysbury, in Wiltshire. He was erroneously said, amongst others, by Wood,[1] to have been the son of a wealthy tanner of that place, whence he has been called a man of low extraction. But when he was admitted into the Society of the Middle Temple a different parentage appears. For young Davys's father is there mentioned as late of New Inn Gentleman.[2] The tanner, however, has been recorded in several books of note and authority,[3] although, in truth, Mr. Davys was a legal practitioner in Wiltshire,[4] and, having acquired a sufficient confidence to educate his children well, retired to Tisbury, his native place.

[1] "Athenæ," by Bliss, vol. ii. p. 400.

[2] "Biog. Brit.," Kippis, vol. iv. p. 652; "Life of Davies, Historical Tracts." George Chalmers, author of "Caledonia," wrote this life. "Notes and Queries," vol. ii. 1, p. 176.

[3] See *Id.* vol. i. 3, p. 82.

[4] Pearce's "Inns of Court," p. 293.

Mrs. (Mary) Davys was the daughter of Mr. Benett, of Pitt, or rather Pyt House, in that country. The Benetts, of Pyt, have been well known in our own time. The struggles of Benett and Astley for the representation of the county are remembered as severe and costly.

The varied and high attainments of the son have been amply acknowledged, and freely celebrated. He was the "sweet poet and grave lawyer." "The more distinguished poet and the eminent lawyer."[1]

The boy was not fifteen when he became, in Michaelmas Term, 1585, a Commoner of Queen's College, Oxford.[2]

From thence he removed to the Middle Temple in 1588. But he returned to the University in 1590, and took the degree of B.A.[3]

Wiltshire was honoured by the precocity of Davys in literary talents, for in 1596 he had published his poem on Dancing,[4] entitled, "Orchestra," the title-page of which is followed by a "dedicatory sonnet to his very friend, Ma. Richard Martin." The "sonnet is written in extravagant terms of friendship and admiration," and it is only to be found in the first

[1] "Coll. Topograph. et General." vol. v. p. 208 (t).

[2] Chalmers's "History of Oxford," vol. i. p. 105.

[3] "Fasti Oxon.," vol. ii. p. 250.

[4] He was not the less a philosopher. But, as Molière says, in his "Bourgeois Gentilhomme," "La philosophie est quelque chose; mais la musique et la danse! La musique et la danse, c'est là tout, ce qu'il faut."

rare edition, and in the almost equally rare Bibliographical Catalogue of the "Ellesmere Collections.[1]

With these early talents was united a tide of youthful frolics. They were deemed irregularities at College, and as fines were unavailing, the student was expelled from Commons.[2] Nevertheless, he continued, in 1595, to get over the more severe examinations, and was in that year called to the bar, although, says Wood, "he had no great geny to it."[3] He was called alone.[4]

But whilst he was just bidding fair to rise, an awkward incident occurred, which as Lord Stowell

[1] "Notes and Queries," vol. i. 3, p. 83. Signed Edward E. Rimbault, who gives the rare sonnet in full. It ends,—

"Yet if in friendship you these members prayse,
I will mispend another fifteene days."

At Bridgewater House, perhaps, the only existing copy of the first edition of his "Orchestra" is preserved, 12mo, 1596; with the MS. sonnet presented with it to the then Master of the Rolls, and Keeper of the Great Seal [Egerton].

The first edition varies materially from others, because Sir John Davys, having quarrelled with his friend Martin in 1597 or 1598, wished to recall what he had said in his praise in 1596. He omitted also in after editions his tributes to the leading poets of the day, Spenser and Daniel, which we quote, because they are not to be found elsewhere.

"O that I could old Gefferies muse awake,
Or borrow Colin's flayre heroike stile,
Or smooth my rimes with Delia's servant's file."—

"Notes and Queries," vol. iii. 2, p. 461; from the Registers of the Stationers' Company. Thomas Campbell was quite wrong when he fixed the date of this poem, when the poet was fifty-two!—*Essay on Poetry*, p. 184.

[2] Wood's "Athenæ," by Bliss, vol. ii. p. 400.

[3] *Ibid.* [4] Life prefixed to "Historical Tracts," p. 2.

observed, brought him into danger of losing the benefit of all his talents. The peril must be traced home to his "Very friend Ma. Richard Martin." Mr. Martin was by no means a saint. He had himself fallen under the lash of the Benchers, having been expelled from the Middle Temple in February, 1591, for a riot at the prohibited festival of the Lord of Misrule.[1] He was, however, a man of wit and sarcasm, and some of these pleasantries he had let loose at the expense of his companion Davys. Both he and Davys were poets, "genus irritabile." Martin would set the Temple Table in a roar, and is said to have charmed King James. This probably excited the indignation rather than the mirth of Davies.[2] The indiscretion led to the misbehaviour, which, for a while, blighted the prospects of Davys.

In relating this outbreak, we must call attention to the circumstances under which it occurred. This attack by Davys was not one upon a person on the sudden, in the street, amongst a society of equal rank, after a flood of drink and merriment. It was the bastinado administered in the presence of the Worshipful Benchers, and the Barristers and Students assembled

[1] "Archæologia," vol. xxi. p. 109. Paper from Lord Stowell. But Martyn outlived his follies, and became Reader of his Society, and Recorder of London; and he was the associate of Selden, Ben Jonson, and others of eminence, who lamented his premature death in 1618. Chalmer's "Biogr. Dict.," vol. xi. p. 313; "Life of Davies," as above, p. 4. He sat for Barnstaple in 1601, 43 Elizabeth; Willis's "Not. Parl.," vol. iii. p. 188; and for Cirencester in 1603, 1 Jac. I.; *Ibid.* p. 160.—See Polwhele's *Cornwall*, vol. v. p. 139 n.

[2] "Life," as above, p. 3.

in the Hall. Mr. Davys came into the Hall with his hat on, armed with a dagger, and attended by two persons with swords.

Martin was sitting quietly at dinner, at the Barristers' Table. Davys pulled a cudgel from under his gown, and struck Martin repeatedly over the head. The assault was so violent as to shiver the bastinado into pieces. Davys then retired to the bottom of the Hall, drew one of the swords belonging to his attendants, and flourished it repeatedly over his head, turning his face towards Mr. Martin, and then hurrying down the water-steps of the Temple, threw himself into a boat.[1] This disastrous event happened about the end of 1597 or beginning of 1598. In February he was expelled by an unanimous sentence;[2] disbarred and deprived for ever of all authority to speak or consult in law.[3]

This name, Davys or Davies, would seem to raise a suspicion that he had some Welsh blood in him, to have prompted an act so daring, so violent, and so fraught with hazard. His ruin was now, as far as appearances went, an accomplished fact. He, nevertheless, could still hold to Oxford, and thither he repaired, but in the condition of a sojourner; and he "followed his studies, though he wore a cloak."[4]

[1] "Archæologia," vol. xxi. 108.
[2] "Chalmers," vol xi. p. 313.
[3] Foss's "Judges," vol. v. p. 436.
[4] Wood's "Athenæ," by Bliss, vol. ii. p. 401.

There it is probable, in the highest degree, that he wrote his famous "Nosce Teipsum"—an oracle expounded in two elegies. 1. Of Human Knowledge; 2. Of the Soul of Man, and the Immortality thereof.[1] The first edition was published in 1599, with (as it is said) a dedication to Queen Elizabeth.[2]

> "To that dear Majesty, which in the north
> Doth, like another sun, in glory rise;
> Which standeth fixed, yet spreads her heavenly-worth
> Loadstone to hearts, and loadstone to all eyes."

Still the date of this poem has been a crust for the biographers. It has even been surmised that there is a mistake as to its having been written.[3]

However, if he wrote it in 1598, and published it in 1599, how can the dedication in 1592 be reconciled? Yet so much are the critics at fault that modern writers represent the poet to have been twenty-five years of age when the "Nosce te ipsum" was written. The date would, in that case, have been 1595, which offers but a sorry compromise, and by no means touches the difficulty of 1592. A writer in "Notes and Queries," Mr. Rimbault, who seems to have taken some interest in Sir John, has come to the conclusion that Wood is right.[4] What could be more

[1] Wood's "Athenæ," by Bliss, vol. ii. 401.

[2] Wood, by Bliss, vol. ii. p. 401; and see n. 4 there as to the reprints. Mr. Rimbault, in "Notes and Queries," vol. i. 3, p. 83, has brought together all the editions of the poem in a carefully compiled list.

[3] Chalmers, vol. xi. p. 313. That means by him.

[4] First Series, vol. iii. p. 83.

reasonable than that the mind of the solitary student should have thus unbent itself at a very hopeless period?[1]

Davys, notwithstanding this early frost upon his youth, was destined to survive his disgrace, and see more gracious days. He must, in his repose at Oxford, (a happier and better place he could not have chosen) have contemplated the possibility of redeeming his character. He had tact enough to discern that the Sovereign, if not won, could be appeased by flattery.

Elizabeth, although she could hardly have bestowed any special marks of favour upon one whose infant career was already clouded, no doubt read with pleasure the best acrostic hymns of that day at least. He wrote twenty-six of these, his text being "Elizabetha Regina."[2] They were called "The Hymns of Astrea." It was the Augustan age for passing hom-

[1] Yet, notwithstanding all the praises lavished on the poem concerning the Immortality of the Soul, there is a little morsel of criticism in a letter from Alexander Dalrymple, Esq., the great hydrographer, to Mr. Herbert. Under date of June 10, 1786, he thus writes:—

"Dear Sir, I have lately purchased the following old books."

He enumerates several.

"I have also got Wither's Translation of 'Nemesius de Naturâ hominis,' by which I find Sir John Davis's poem on the Immortality of the Soul is chiefly taken from 'Nemesis.'

"I have picked up a tract in 4to., by Thomas Jenner, with some very good plates, the marginal notes of which seem to be what the heads of Tate's edition of 'Sir John Davis's' are taken from."—Nichols's *Literary Illustrations*, vol. iv. pp. 549, 550.

[2] Chalmers, vol. xi. p. 313; "Life," *ut supra*, vol. v.

age to the great and the prosperous. Much later we find our Thomson singing—

> "O Hartford! fitted or to shine in Courts,
> Or walk the plain."

Mr. Davys was wise under his *flagellum*. The Queen was to be entertained by Secretary Cecil, and the courtiers who vied in their compliments towards her, no doubt, in some way made the acrostics known to Her Majesty. For the poet, *by desire*, contributed his share in a "conference between a gentleman usher and a post, or dramatic entertainment."[1]

Thus he owed to his muse and his humour a return to existence. Well might he have exclaimed: "Sic me servavit Apollo."

In 1601 he was returned for Corfe Castle, in the short and last parliament of the Queen.[2] . . . . . It existed barely two months, but a spirit against monopolies, not without knowledge of the subject, was attributed to Davys. And he strenuously supported the privileges of the House, for which Elizabeth cared little.[3] Indeed, he was very hostile to monopolies. He would have them proceeded against by bill, not by petition. His old antagonist, Martin, supported them. Hakewell, or Hakewill, a great parliamentary lawyer,

[1] *Ibid.* "Which does not add much to his reputation," *Id.* p. 314. See Harl. MS. No. 286, for a copy.—*Ib.*

[2] October 27 to December 29.

[3] Chalmers's "Biographical Dictionary," vol. xi. p. 314, "Life," *ut supra*, vol. vii. citing Ewes's *Journal*, p. 649, &c.

asked if "*bread was not in the long list of monopolies?*" Elizabeth, however, thought it prudent to recall the patents. And Davys was sent on the Grand Committee, to thank the Queen for relinquishing the projects.[1]

We must not be surprised, if, after these political demonstrations, the acrostics and the flattering verse of "nosce teipsum" had but little weight, in recommending him for promotion to a jealous and wary princess.

A Member of Parliament has no continuing condition. . . . . Unless he has influence enough to attain political promotion, he is liable, especially if not affluent, to a sadder and serious overthrow. Besides, Davys had a foresight that his best path lay in the legal direction. But he was an exile from his Inn. Consequently, he judged rightly when he made a resolution to approach the offended Society, whom he had outraged, with a petition for restoration in terms of penitence. He had encouragement to make this submission through the favour of Lord Ellesmere, to whom he had, no doubt, applied.[2] His petition was presented at a Parliament of the Society, held on the 30th of October, just after the meeting of the Legislature, and it appears thereby that he had made the first move in Trinity Term, but that the matter had been adjourned. He was, however, allowed to attend the Commons, and now in November it was agreed

[1] "Life," as above, vol. viii.

[2] Wood, by Bliss, vol. ii. p. 401.

that after he had made the admission and satisfaction required by four benchers, he should be restored to his position at the bar and his seniority. So he publicly pronounced his repentance in due form, on the feast of All Saints. This was done in the hall, in the presence of Chief Justice Popham, Chief Baron Periam, Judge Fenner, Baron Savil, Serjeant Harris, Serjeant Williams, and the Masters of the Bench. . . . .

The ceremony being so far completed, and the apology read in English, Mr. Davies turned himself to Mr. Martyn, then there present, and, as he could offer no sufficient satisfaction to him, entreated his forgiveness, promising sincere love and affection in all good offices towards him for the future. Mr. Martyn accepted the tender thus made, and the re-instatement became complete.[1] Yet, notwithstanding these apparent signs of reconciliation, or even of regard, in 1622, more than twenty years afterwards, evidence showed too plainly that the wound had not been healed. In that year, Sir John reprinted his poetical works. The sonnet to Richard Martin, to which we have referred,

[1] "Archælog." vol. xxi. pp. 107—112; Papers by Lord Stowell. Chalmers is obscure when he says, "Biog. Dict." vol. xi. p. 314, that in consequence *of the figure he now made*, he resigned his position. In looking at the context, this would almost seem to point at his success in Parliament. But he had made his apologies to the Benchers *before* he was returned to the House. His petition was originally presented in Trinity Term, 1601, and he had scarcely taken his seat, when his suit was granted, "Archælogia," vol. xxi. p. 111. "It seems not unlikely, from circumstances not worth detailing, that this Richard Martin was the son of Sir Richard Martin, Master-Worker of the Mint in 1593.—*The Egerton Papers*, p. 188.

was withdrawn, and one to Prince Charles substituted, and at the conclusion of the poem, he left a *hiatus* after the 126th stanza, on account of the same quarrel.[1] But he did not fail to remember Lord Ellesmere's invaluable interference. In the dedication of his "Reports" to that nobleman, he says, that the Chancellor "had been a good *angel* unto him, and what might carry a shew of *adulation* in another, must needs be thought *gratitude* in him."[2]

Queen Elizabeth died shortly after this restoration of the lawyer to his rank and his chambers. And, as he had studied the manners of courtiers, we are not surprised to find him going with Lord Hunsdon into Scotland, to congratulate King James. Several persons of note were in his company, and the monarch inquired their names, for they were introduced into his presence. Lord Hunsdon having mentioned John Davies, who stood behind, the King straightway asked "whether he was 'Nosce teipsum.'" The answer being affirmative, James graciously embraced him, and conceived a considerable liking for him.[3] He was at this time well acquainted with Bacon. Bacon desired Davies "to perform to [him] all the good offices, if there be any nibbling at my name, which the vivacity of your wit can suggest to be performed to one in whose affections you have so great sympathy, and in

[1] Rimbault, in "Notes and Queries," vol. i. 1, p. 83.
[2] "Life," as above, vol ix.
[3] Wood's "Athenæ," Bliss, vol. ii. p. 401.

whose fortune you have so great interest."[1] It is said, however, that the correspondence ceased when Bacon's success advanced him to high rank.[2]

So soon as the year 1603, the attention of the king was directed to Ireland. Davys must have evidenced some marked talents as a lawyer and a statesman, for, through the influence of Cecil, he was sent to Ireland as Solicitor-General. His move to be Attorney-General was immediate.[3] He then went Judge of Assize, and conducted himself with such prudence and humanity, as to allay the ferments in that country. His superiors called him "a painful and well-deserving servant of His Majesty."[4] He was then appointed Collector and Receiver-General of the King's Composition Money in Connaught and Thomond.[5] On these circuits, says Mr. Chalmers, he probably met with Eleanor, third daughter of Lord Audley, afterwards Earl of Castlehaven. In his capacity of Judge, he visited every province. Lord Audley was enjoying his ease after his prowess in the Irish wars, and was admired by the people for his valour.[6]

[1] "Life," as above, vol. ix. Another kindly letter from Bacon to Davies, then Attorney-General in Ireland, will be found amongst the Birch MSS. in the British Museum. An extract is given in the "Life," p. 10, note.

[2] "Life," p. x. "Such is the instability of friendships between men who run for the same prize; whether for the distinctions of literature or for the honours of life."—*Ibid.* Yet, we think that the intimacy between two advocates would not really decline, inasmuch as one held office in Ireland, and the other was engaged in his own country.

[3] In 1606.

[4] Chalmers's "Biog. Dict." vol. xi. p. 314; "Life," vol. xi.

[5] "Notes and Queries," vol. ii. 11, p. 277.

[6] "Life," p. xi.

Mr. Davys married this lady shortly after one of these judicial journeys.

In 1606, being still Attorney-General, he was called to the degree of Serjeant-at-Law.[1] Having had his seniority preserved to him through the clemency of the Masters of his Inn, he had been no longer at the bar than eleven years when this honour befel him. His rings had the motto, "lex publica lux est."[2] He then returned to Ireland with the king's dispensation,[3] and on the 11th of February 1607, he was knighted at Whitehall.[4] On the 30th of June 1612, 10 Jac. I. he was made King's Serjeant.[5]

He seems still to have been in correspondence with Lord Ellesmere and the Earl of Salisbury, to whom his dignities are attributed. But we need not look much further than the good will and remembrances of the king. However, he sent to the Earl of Salisbury, just mentioned, an account of a circuit which he subsequently went with the Deputy and the Chief Justice,[6] when a guard of "six or seven score foot, and fifty- or three score horse were thought necessary protection against a peasantry *recovering* from their wildness.[7] And George Chalmers says: 'Though the Lord-Deputy and Judges were to pass *through the wastest and wildest*

[1] Dugdale's "Chr. Ser." p. 103; Wood's "Athenæ," vol. ii. p. 404; Wynne's "Serjeant-at-Law," p. 56. Trin. 4 Jac.

[2] Wood as above.

[3] *i. e.* His presence as a Serjeant in the Court of Common Pleas was excused. "Dispensed with" is the right word.

[4] Wood as above. [5] Wynne, p 57. [6] July, 1607.

[7] Chalmers's "Biog. Dict." vol. xi. p. 312.

parts of the north, yet we had only for our guard six or seven score foot, and fifty or threescore horse, that is an argument of a good time, and a confident deputy. To have performed this service in former times, would have required an army. But the clock of civil government was now well set."[1]

In 1608 Sir John was sent to England with the Chief Justice, for the purpose of manifesting to James these progresses of the law, and the consequent establishment of peace. He was received, upon this visit to England, by the Chancellor and the Earl of Salisbury with renewed kindness.[2] At this time, likewise, there was a plantation made in Ulster. Ireland civil, said Bacon, must not become Ireland savage. So an emigration from England and Scotland was imported, with a view of settling a more industrious race in that province.[3] Sir John in 1610, wrote a letter upon this matter to Lord Salisbury.[4]

In 1612, being just made a King's Serjeant, he was elected for Fermanagh, the first representative of that county, and was chosen the Irish Speaker after a violent contest between the Protestants and Catholics.[5]

We have a letter from Dr. Thomas Ryves to Sir Daniel Dunn,[6] which gives an interesting account of the struggle. A portion of it is subjoined :—

[1] Chalmers's "Life," as above, vol. xiii.
[2] *Id.* vol. xiii. [3] *Id.* vol. xiv.
[4] *Id.* It is amongst the Harl. MSS.
[5] See his speech at the opening of the Parliament, in his "Historical Tracts," London, 1786, pp. 293—317.
[6] Ellis's "Original Letters," series III. vol. iv. p. 173.

"The knights and burgesses of the Lower Howse, having received order from the deputie to chuse a Speaker, went together, myself having this poore honour, to bee one of the nomber. Sir John Davis, the King's Attornei-Generall in this kingdome, was commended to us from the King; and therefore wee named him; the recusants named one Sir John Everard; a man soe farr addicted to his superstition, that hee left his place att the King's Bench, rather then hee would take the oath of supremacie.

"Seeing therefore that the major part could not bee discerned, as wee sate, Sir Oliver St. John's, Master of the Ordinance, called all those which named Davis, and willed them to follow him out of the House, as the manner is; and being without, wee sent in a couple to them, to nomber them, requesting them to send out a couple likewise to nomber us; butt they refused to nomber or to bee nombred; our men were noe sooner returned unto us, but they tooke Sir John Everard, and sett him in the Speaker's chaire; which when wee sawe, wee entred the Howse againe, and propownded for Sir John Davis, and finding ourselves to be the major part by 28 voices or thereabouts, having named him, two knights tooke him and putt him allsoe in the Speaker's chaire, and sett him downe in the other's lapp; and because hee would not remove they tooke him fairelie out of the chaire, and kept Sir John Davis there. I cannot express what a crie was raised hereupon, butt the recusants seeing they could not prevaile, left the Howse, and being sent unto by us,

refused to returne, but went everie man to his lodging; and shortlie after, wee caused the mace to bee borne up before our Speaker, and carried him to his howse. This is the true somme of that which passed that day, noe man doubteth sir, butt that, had the Parliament beene kept in the towne, the whole towne had beene drawen in upon us; and wee had all fallen to cutting of throates. But in the castle, they durst not stirr soe farr. The next daie came eight of them to the Lord Deputy to complaine of the wrong they had received; alleging that Sir John Everard was pluckt out of the chaire with greate violence and throwne all along upon the ground; in soe much that he was now soe lame thereof, that hee could not rise out of his bedd; and that hee had undoubtedlie beene killed by us in the place, if they had not taken him away, and saved him. It was a wonder to us to heare men soe shameleslie to affirme such vile falsities: I stood upon a seate next over them: I sawe all that passed: and soe lett God blesse mee, all these assertions are false and slanderous. Not soe much as his hatt that I sawe, moved upon his head; neither doe I thinke that hee soe much as touched the ground with a knee; it seemed to mee, that in coming out of the pugh,[1] hee trode upon his gowne, and soe stooped, as lowe as a man's bosome and noe lower, and this was all."[2]

[1] Pew.

[2] Ellis's "Original Letters," Third series, vol. iv. p. 474.

The Parliament assembled in May 1613.[1] He had been by no means unmindful of the Irish people, for in 1612 he published "A Discourse of the true reasons why Ireland has never been entirely subdued till the beginning of His Majesty's reign."

In 1614 he much interested himself in the restoration of the Society of Antiquaries, instituted in 1590. It had been discontinued, but was revived by Sir James Ley. It enumerated about this period the names of Cotton, Hakewill, Camden, Stow, Spelman, and Whitelocke.[2]

In this year, likewise, he managed to be returned to the Short Parliament of the 12th year of King James, which expired by dissolution in nine weeks. He sat for Newcastle-under-Line.[3]

Sir John Davys retired from Ireland in 1616. He found that a change had taken place in the English administration. He had various grants of lands and profitable wardships in that country, and he was nominated on many State Commissions.[4] He continued, however, his practice at the Bar, and in this same year[5] appeared with a strong array of counsel for the Crown against Frances, Countess of Somerset, for the murder of Sir Thomas Overbury. Sir Francis

[1] Chalmers's "Biog. Dict." vol. xi. p. 315; "Life," vol. xvii. In the "Life," vol. xviii. n. will be found an interesting letter concerning the elections, from the Lord Deputy Chichester to the Serjeant.

[2] Chalmers, vol. xi. p. 315.

[3] Willis's "Not. Parl." vol. iii. p. 173.

[4] "Notes and Queries," 2, vol. xi. p. 278.

[5] May 24, 14 Jac. I.

Bacon, Attorney-General, led for the prosecution, but the Countess pleaded guilty.[1] He was, no doubt, also concerned against the Earl, although his name does not appear.[2]

It seems, likewise, that he frequently went as Judge of Assize. Some of his charges on the Circuits are still extant in the British Museum.[3] One will be found amongst the Hargrave MSS.,[4] where he is called "His Ma^te^ first Serjeant-at-Law, and one of the Justices of Assize for^e^ the Northerne Circute." It is very lengthy, and treats of numerous subjects connected with the criminal law.

In 1620[5] he again sat for Newcastle-under-Line,[6] but seldom spoke, unless upon Irish affairs,[7] which he neither forgot nor neglected.

In 1621, a Bill being introduced to forbid the importation into England of Irish cattle, and prohibiting the exportation of coin, Sir John contended strongly for the trade in cattle, and for the continued currency of coin in Ireland. The Bill was lost.[8]

We now approach the sudden dissolution of this extraordinary person.

His end was very remarkable. He had been

[1] "State Trials," vol. ii. p. 952.
[2] *Id.* p. 965
[3] Chalmers's "Biog. Dict.," vol. xi. p. 315.
[4] No. 284.
[5] 18 Jac. I.
[6] Willis's "Not. Parl.," vol. iii. p. 183.
[7] "Life," vol. xxv. See "Parlm. Deb.," vol. i. p. 327.
[8] "Life," vol. xxvii.

Attorney-General for Ireland, and Speaker of the House of Commons, and had come up to London, as we have said, in 1616.

Sir Ranulph or Randolph Crew had given great offence in common with the other Judges. King Charles, having an impoverished exchequer, had recourse to forced loans, according to the amount they would have paid towards a subsidy. The Judges were applied to, and they favoured the demand. But another step was required by the monarch. They must subscribe a paper recognising the legality of the collection. This was refused, and it was determined to make an example. The victim was Chief Justice Crew, who was discharged on the 9th of November, 1626.[1]

Upon this, a short time was permitted to elapse before the successor was appointed. Sir John had written in defence of the obnoxious exaction, and he told Mr. Mead that he was at supper with the Lord Keeper about the 7th[2] or 8th of December, and fully expected the great promotion. Some days before, his name had been freely mentioned as the person destined for the chief seat in the King's Bench. But death was nearer to the eminent Serjeant than the ermine and collar of S. S.

"This, of the death of Sir John Davis," writes

[1] "Foss's "Judges," vol. vi. p. 291.

[2] The 7th, according to Pearce's "Inns of Court," p. 293.

Mr. Mead to Sir Martin Sterteville, under date of the 16th December, for aught I can hear, "holds true."[1] After the supper with the Lord Keeper, he lived not to see the morning, and his death must have been kept quiet, for as long back as the 9th of December there was a letter from Mr. Davys to the Rev. Josiah Mead, containing these words: "I heard last night that Serjeant Davis, who, it is said, looked to be Lord Chief Justice of the King's Bench, in place of Sir Randal Crew, was found dead in his bed."[2]

Again, some days after, "My Lord of Huntingdon rode up, upon this news, for he is his heir."[3] He had, when Ferdinando, Lord Hastings, married Sir John's daughter, and succeeded his father as Earl of Huntingdon.[4]

There appears to have been an inscription on his monument separate from the epitaph. It was fixed on a pillar *near the grave.*

"Vir ingenio compto, rara facundia, oratione tum solutâ tum numeris astrictâ felicissimus. Juridicam severitatem morum elegantiâ et amœniore eruditione mitigavit. Paternus fidus, judex incorruptus, ingenuæ

[1] "Notes and Queries," I., vol. iii. p. 336. Sir Dudley Ryder, who had been Attorney-General to George the Second for twenty years, died immediately upon his appointment to the Chief Justice of the King's Bench, before his Patent of Peerage could be made out.

[2] *Ibid.* Foss's "Judges," vol. v. p. 436.

[3] "Notes and Queries," I., vol. iii. p. 337.

[4] *Ibid.*

pietatis amore, et anxiæ superstitionis contemptu juxta insignis."[1]

The epitaph of this accomplished man was "on the third pillar, on the south range of St. Martin's Church." A plain white marble monument. The inscription begins:—

"D O M S.,[2] Johannes Davys, Equestris Ordinis, quondam Attornati Regii Generalis amplissimnâ Provinciâ regno. Hib. functus Inde in patrian revocatus inter Servientes Domini Regis ad Regem prîmum locum Sustinuit, Ob. 1626.[3]

"Arms on a lozenge, argent; a heart gules, on a chief; sable three mullets. Also at the bottom of the monument sable a fess ermin, between three cinquefoils, argent."[4]

In Pangbourne Church, Berks, there is a monument to Sir John Davis, who died in 1625, with the effigies of himself and two wives, all carved out of chalk.[5]

His widow, Lady Eleanor (Touchet), was the daughter of George, Earl of Castlehaven. She was

[1] "Life," prefixed to his poetical works, London, 1773, p. 19.

[2] Deo Optimo Maximo Sacrum.

[3] Stow's "Environs of London," by Strype, Book VI. p. 72; "Notes and Queries," I., vol. v. p. 331. "It is extracted from one of a series of MS. volumes in my possession, in the "Autograph of John Le Neve."—*Ibid.*

(Signed) EDWARD F. RIMBAULT.

[4] Stow as above; and see "Notes and Queries," II., vol. xi. p. 352. In 1604 he obtained from the Ulster office for crest: "On a mount vert, a pegasus or, winged, gules."—*Notes and Queries*, II., vol. xi. p. 352.

[5] Nichol's "Literary Illustrations," vol. vi. p. 418. A Letter of Mr. Brooke, Somerset Herald, to Mr. Gough, dated December 8, 1784.

buried in the Church of St. Martin, where her first husband lay. She survived him no less than twenty-six years; but they were years of sorrow, if not of folly. She lived mostly at Parton, in Hertfordshire.[1] She entered into a second union with Sir Archibald Douglas, who totally neglected and deserted her. So she became so poor that it became a question at the Council as to her maintenance.

Her strange conduct must have attracted general notice, for there was an anagram celebrity connected with her.[2] "There is no doubt that she and her brother were as mad as could be."[3] Her conduct, indeed, was so gross towards the Bishop, Dean, and Chapter of Lichfield, on a day fixed for the celebration of the Communion, by daubing the Bishop's seat with a filthy composition, as to induce the Lords of the Council to issue two warrants, one to bring the lady to Bethlehem, the other to the Keeper to receive her. "There are messengers gone into Staffordshire to bring her up."[4]

She was again sent to Bedlam in 1649, when she published her prophecies, being first commited to the Tower.[5]

[1] Wood's "Athenæ," vol. ii. p. 404.

[2] "Never so mad a Lady." Here we have the *y* Davys. The other was "Reveal, O Daniel!" But here there is no s, and *i* is substituted for the right rendering.—See *Notes and Queries*, I., vol. iii. p. 336. [3] *Ibid.*

[4] *Id.* p. 337, where a full account of her madness in this particular will be found.

[5] Campbell's "Essay on Poetry" (1848), p. 184.

She had by her husband one son, who died a youth, and a daughter Lucy, who, having married Ferdinando Hastings, carried the blood of Davies, with his fortune, into the family of Huntingdon.[1]

The greatest annoyance seems to have been, after all, her pretension to the spirit of prophecy.[2] She went so far as to foretell her husband's death, and she laid claim to her inspirations through a voice of dark and obscure expressions, which she declared she heard. On the Sunday, before the death of Sir John, as they were sitting at dinner, she suddenly burst into tears. He, asking her the cause, was answered: "Husband, these are your funeral tears!" To which he replied: "Pray, therefore, spare your tears now, and I will be content; you shall laugh when I am dead!"[3]

The works of the "grave lawyer and sweet poet" extended to politics and history.[4]

We will first dispose of the dry law.

In 1615 he published "Reports of Cases adjudged in the King's Courts in Ireland." These were the first reports of Irish judgments which had been made public during the four hundred years, when the laws

[1] "Life," p. 11.

[2] 1649. "You may see more of her and her prophecies in the 'History of the Life and Death of Dr. Will. Laud, Archbishop of Canterbury,' Part II. lib. 4, an. 1634. See also in the 'Diary,' or 'Breviat of the said Archbishop.' Printed 1644, p. 18."—Wood's *Athenæ*, vol. ii. p. 404.

[3] "Life," prefixed to the Poems, London, 1773, p. 17.

[4] A full catalogue of his writings is given by Anthony à Wood.—*Athenæ*, Ox., vol. ii. p. 401.

of England had existed in that kingdom. The Preface is addressed to Lord Ellesmere, Lord Chancellor.[1]

The first edition was in French. Dublin, 1615, folio. It has been translated into English. Dublin, 1762, folio.[2] It has passed through several impressions. In the folio of 1674 there are some MS. notes by Hargrave.

Another law work was an edition of the eleven books of Coke's "Reports."[3] It was published after the death of the author, in 1651.

In 1614 he had published "A Declaration of our Sovereign Lord the King, concerning the Title of His Majesty's Son, Charles, Prince of Wales, and Duke of Cornwall."[4] And Mr. Rimbault finds in Thorpe's Catalogue for 1823 "A Treatise of Tenures touching His Majesties' Prerogative Royal," by John Davies, folio, MS."[5]

In politics, his Treatise concerning Impositions, Tonnage, Poundage, and other taxes, created considerable attention. An edition was published in London in 1656. There was likewise "Jus Imponendi Vectigalia," or the learning concerning Customs and Impositions upon Merchandize.[6]

[1] Chalmers's "Biog. Dict." (Davies), vol. xi. p. 315.

[2] "Notes and Queries," II., vol. v. p. 49.

[3] There are now 13.

[4] "Life," p. 31.

[5] "Notes and Queries," I., vol. iii. p. 83. See the Harl. MSS. No. 1578, and 426 I.

[6] 8vo. London, 1659. A transcript of a portion of his MS. argument in favour of Impositions will be found in Carte's "History of England," vol. iv.

There was also published in 1674 "England's Independency of the Papal Power," by Sir John Davies and Sir Edward Coke, selected from their greater volumes, with a Preface, by Sir John Pettus.[1]

And he left in MS. "a large epistle to Robert, Earl of Salisbury, of the state of the counties of Monaghan, Fermanagh, and Cavan, and of the Justices of Peace and other officers of Ireland."[2] But his most important political tract was that upon the subjugation of Ireland, already noticed. This has been reprinted several times, and has always been considered a most valuable document for political inquirers. Dr. Thomas Sheridan edited it, together with the poem on "The Immortality of the Soul." The latter he dedicated to the Earl of Orrery, and spoke of Sir John as nearly allied to the noble ancestors of that Lord.[3]

He attributes the delay of the conquest to the faint prosecution of the war, and the looseness of the civil

p. 191, cited. "State Trials," vol. ii. p. 399, supposed to have been written at the end of King James's reign, "*Ibid.*" See the great Case of Impositions, "State Trials," vol. ii. pp. 371—534. The Att.-Gen. *v.* Bates Judgment for the Crown in the Court of Exchequer.—*Reports of Sir Richard Lane*, p. 22.

[1] "State Trials," vol. ii. pp. 382—395. Mr. Pycroft in "Notes and Queries," II., vol. x. p. 115, writes that he has in his collections a very ancient original MS. dedicated to the King. It is divided into thirty-two chapters, having for its motto "Cui vectigal-vectigal, cui tributum, tributam." The dedication set out at length in "Notes and Queries," as above, is curious. There is another copy of this MS. in the Harl. MS., 6241.

[2] Wood's "Athenæ," vol. ii. p. 403; Gough's "British Topography," vol. ii. p. 771, citing Harris's "Irish Writers," p. 333.

[3] "Notes and Queries," II., vol. xi. p. 278.

government.[1] He begins with the reign of Henry the Second, when a tame though hollow submission was vouchsafed upon his arrival. He then goes on to King John, who obtained the lordship of Ireland as a kind of compensation for his surname of *Sans Terre*. But he became a laughing stock, for he surrendered his empire to the Pope, taking it back to hold in fee-farm.[2] Edward the Second was the next monarch who meddled with Scotland. He sent Piers Gaveston there as his Lieutenant. The minion was at first successful, but was at length overthrown.[3] Edward the Third, the strong Prince, did not count Ireland worthy of his prowess, but Richard, his son, determined to finish the conquest of that kingdom. Whilst, however, he was deluded by feigned submissions, the Duke of Lancaster's rebellion called him hastily to England.[4] After this, Sir John gives a masterly account of the inabilities of succeeding monarchs to reduce this wild country, until he at length closes with the triumph of Elizabeth, who "sent over such supplies of arms and treasure as did suppress the rebels, and repel the invaders." Upon the landing of the last grand army, there was a general revolt, but it was subdued, and succeeded by a general obedience and reformation of the Irish, "and thereupon ensued the final and full conquest of Ireland."[5]

[1] "The Discovery," p. 3.
[2] *Id.* p. 64.
[3] *Id.* p. 68.
[4] *Id.* p. 71.
[5] Sir John Davies's "Historical Tracts," London, 1786, p. 78.

His letter concerning the hasty flight of the Earl of "Tirone" from Ireland, is a paper of great interest. It is endorsed by Lord Ellesmere, "Rec. 5 Octobris 1607, S^r^. John Davys, out of Irelande."

It thus ends: "And so remayne at y^r^. Lps. comandme^t^. very humbly, "Jo. Dauys.

"Dublin, 12 September, 1607."

But, however able he may be considered as a law reporter, however acute and statesmanlike his political writings may be considered, however successful as an advocate, and high law officer of the Crown, whatever merit his charges as a Judge and his conduct at the Assizes may have commanded, his skill and reputation as a poet must be regarded with respect, when Spenser's "Fairy Queene" had won the day—when Shakespere was rising into immortality, and the presence of Milton was leaving but little hope that the songs of his contemporaries would survive.

Nevertheless, the "Orchestra, or a Poem on Dancing," to which we have already drawn attention, has been much applauded. Sir John Harington thought it worthy of an epigram which savours of commendation, whilst it administers a caution to the infant muse.[1] The biographers have great difficulty

[1] "Orlando Furioso, Epigrams," Book II. p. 67, folio, London, 1633; Compare Soame Jenyns's poem "On Dancing;" "Works," vol. i. London, 1790.

"Youths whirl'd around in joyous dance, with sound
Of flute and harp, and standing at their doors,
Admiring women on the pageant gazed."

Lord Derby's *Homer*, vol. ii. p. 224.

in reconciling the discrepancies between the early edition of the Poem and that dedicated to Prince Charles many years afterwards. This difficulty has been surmounted. We have referred at length to Mr. Rimbault's communication in "Notes and Queries."[1] The serious quarrel between Davies and his friend Martyn clears up the mystery. In this latter edition[2] of the "Dialogue between Penelope and one of her wooers," the praise of Mr. Martyn is omitted. And, as Sir John failed in obtaining any favourable notice from Elizabeth, he abandoned in this fresh edition the stanzas in her honour. . . . . conduct by no means disagreeable to the Court party. The verses cannot be said to be without merit. The goddess of the poetry in every shape and fashion is the dance. The bard would refer to a great original:—

"For that brave sun, the father of the day,
Doth love this earth, the mother of the night,
And, like a reveller in rich array,
Doth dance his galliard in his leman's sight,
Both back, and forth, and sideways—passing light.
His princely grace doth so the gods amaze,
That all stand still and at his beauty gaze.[3]
And the parent of the dance was love.

Thus love taught men, and men thus learn'd of love
Sweet music's sound, with feet to counterfeit,
What was long time before high thund'ring Jove
Was lifted up to heavn's imperial seat;
For though by birth he were the Prince of Crete,

[1] *Ante.*
[2] At the foot of the title page are the words, "not finished."
[3] Stanza 39.

Nor Crete nor heav'n should the young prince have seen,
If dancers with their timbrels had not been."[1]

Penelope could not resist the charms of the dance, and the harmony of the music.

"Her brighter dazzling beams of majesty,
Were laid aside, for she vouchsaf'd awhile
With gracious, chearful, and familiar eye,
Upon the revels of her Court to smile;
For so time's journies she doth oft beguile:
Like sight no mortal eye might elsewhere see
So full of state, art, and variety."[2]

But the poetry which has established the fame of Sir John Davys is his philosophical composition "On the Immortality of the Soul," or the "Nosce teipsum." We have said[3] that this work is supposed to have been written whilst the author had domiciled himself at Oxford, after his expulsion from the Temple. It attracted the attention of James, as we have related, and secured the royal favour for its author. Johnson, in his "Life of Waller," makes honourable mention of "Davies."

"The poets of Elizabeth had attained an art of modulation, which was afterwards neglected or forgotten. Fairfax was acknowledged by him [Waller] as his model; and he might have studied with advantage the poem of Davies, which, though merely

[1] Stanza 76.
[2] Stanza 127.
[3] *Ante*.

philosophical, yet seldom leaves the ear ungratified.[1] We every where meet with systematic arrangement, metaphysical exactness, reach of thought, and elegance of diction."[2]

It was republished, with fresh praise, in 1622, and Nahum Tate gave a third edition to the public in 1697.[3] "The late well-known biographer of Garrick,[4] published this with other poetical works of Sir John Davies, in 1773, when a fresh laurel was placed by the critics on the poet's head."[5]

But to proceed:—The poet celebrates the soul as subsisting by itself without the operation of the body.

He loves to illustrate. . . . . .

> "She is a vine, which doth no propping need,
> To make her spread herself, or spring upright;
> She is a star, whose beams do not proceed
> From any sun, but from a native light."[6]

He asserts the independence of the soul over the body.

[1] "Lives of the Poets," vol. i. p. 411.

[2] "Life," by George Chalmers, p. 5.

[3] Not 1699. See *Ibid.* The error is repeated in the "Life," p. 19, prefixed to "Nosce Teipsum," 1773. Nahum Tate gave a long preface to the edition of 1697: "Much beyond the powers of the editor, however much it celebrates the author."—*Life*, by Chalmers, p. 5.

[4] Thomas Davies.

[5] "Life," p. 5. "Mr. W. Thompson, the author of a poem called 'Sickness,' was a great admirer of our author; it is from a corrected copy of his that Sir John Davies's 'Poems' are published." "Life," prefixed to the edition, London, 1773, p. 18. Isaac Hawkins Browne translated this poem into elegant Latin verse. It will be found in Soame Jenyns's "Works," vol. i.

[6] Ed. 1697, p. 16.

"When she, without a pegasus doth fly
Swifter than lightnings fire, from east to west;
About the centre, and above the sky,
She travels then, although the body rest."[1]

The poet will not allow sense to have dominion over the spirit. He winds up his argument:—

"Then is the soul, a nature, which contains,
The power of sense, within a greater power;
Which doth employ and use the sense's pains,
But sits and rules within her private bow'r."[2]

Much less do the humours of the body have the sway.

"If she the body's nature did partake,
Her strength would with the body's strength decay;
But when the body's strongest sinews slake,
Then is the soul most active, quick, and gay."[3]

The fourth section of the book maintains the doctrine that "the soul is a spirit."

The writer had, we may assume, read the Bible attentively, according to the custom of his day. He could understand the passage of St. Paul:—"The Word of God is quick and powerful, and sharper than any two-edged sword, piercing even to the dividing asunder of soul and spirit, and of the joints and marrow; and is a discerner of the thoughts and intents of the heart."[4]

The Jews have three ideas: soul, spirit, and breath. Breath, they say, dwells between the other two. The Greeks have ψυχη and πνευμα. The soul would seem

[1] "Life," 1697, p. 17.
[2] *Id.* p. 25.
[3] *Id.* p. 27.
[4] Hebrews iv. 12.

to be the substantial agent; the spirit; the inspiration; each allied to the other, but both invisible. The soul, the conscious being:—

"Anima vagula, blandula,
Hospes comesque corporis,
Quæ nunc abibis in loca?
Pallida, frigida, nudula,
Neo ut Soles dabis jocos."

The spirit, we may say, the inseparable attendant, yet no partaker of the thoughts and intents of the mind.

Thus Horace:—

"Audire et videor pios
Errare par luces, amoenæ
Quos et aquæ subeunt et auræ."

And our poet:—

"Though this substance be the root of sense,
Sense knows her not, which doth but bodies know;
She is a Spirit, and heav'nly influence,
Which from the fountain of God's Spirit doth flow."[1]

He calls her a substance and a spirit:—

"As then the soul a substance hath alone,
Besides the body in which she is confin'd;
So hath she not a body of her own,
But is a *spirit* and immaterial mind."[2]

He beautifully describes the union of the soul and the body:—

"Then dwells she not therein as in a tent;
Nor as a pilot in his ship doth sit;
Nor as a spider in his web is pent;
Nor as the wax retains the print in it;

[1] Ed. 1697, p. 28. [2] *Id.* p. 32.

"Nor as a vessel water doth contain;
Nor as one liquor in another shed;
Nor as the heat doth in the fire remain;
Nor as a voice throughout the air is spread.

"But as the fair and chearful morning light,
Doth here and there her silver beams impart;
And in an instant doth herself unite,
To the transparent air, in all and ev'ry part."[1]

His aim is to prove the immortality of the soul.

"Her only end is never-ending bliss;
Which is, the eternal face of God to see;
Who, Last of Ends, and First of Causes is;
And to do this, *she* must eternal be.

"How senseless then, and dead a soul hath he,
Which thinks his soul doth with his body dye;
Or thinks not so, but so would have it be,
That he might sin with more security!"[2]

The soul cannot be destroyed.

"And if herself she can so lively move,
And never need a foreign help to take;
Then must her motion everlasting prove,
Because herself she never can forsake."[3]

The poet clearly points to the brightness of another world, where the soul, weary of this, will be renovated in the "restitution of all things."

"As a good harper, stricken far in years,
Into whose cunning[4] hands the gout doth fall;
All his old crotchets in his brain he bears,
But on his harp plays ill, or not at all.

[1] Ed. 1697, p. 50.
[2] *Id.* p. 73.
[3] *Id.* p. 89.
[4] Skilful.

"But if Apollo takes his gout away,
That he his nimble fingers may apply;
Apollo's self will envy at his play,
And all the world applaud his minstrelsy."[1]

[1] "Immortality of the Soul," p. 96. See a curious note as to a passage in this poem in "Notes and Queries," 3, vol. i. p. 108, and generally as to Sir John Davys's Works, Lowndes's "Bibliogr. Manual," title "Davys." The following curious pieces by him, were, however, published by John Barnes, London, 1720. "Reason's Academie," "A new Post with Sourraigne Salve, to cure the World's Madness." "A mark *exceeding necessary for all* men's arrows." "The Great Man's Flight, and Whither;" "The Gallant's Rouer;" "The Wiseman's Pricheshaft;" "The Poor Man's Butshaft;" or "The Fool's Birdbolt."

SIR ROBERT HITCHAM, Kn^t.

Serjeant-at-Law, 1614—King's Serjeant, 1616.

ROBERT HITCHAM was born near to, if not at, Nacton, Suffolk.[1] His birth-place was Levington, Suffolk, in the 14th year of Elizabeth's reign.[2]

His portrait, conspicuous amongst several others at Serjeant's Inn, and the considerable estate which he acquired by his professional exertions, are sufficient guarantees for his admission into this history. Although it must be confessed that the recollections of these ancient brethren of the coif are very meagre, and such scanty memorials as exist are not found without difficulty. Of this eminent man, amongst others, we know but little. However, he was a scholar in the Free School at Ipswich, and "some time of Pembroke Hall, Cambridge," whence he proceeded to *Greys Inn.*[3]

Mr. Hitcham seems to have entered Parliament about the year 1597, 39 Elizabeth. He sat for West-

[1] Fuller's "Worthies," ed. by Nichols, vol. ii. p. 346 [1572.]

[2] Hawes's "History of Framlingham," by Loder . . . . . p. 203, Woodbridge, 1798.

[3] *Ibid.*

low (Westloe) Cornwall. In 1614, 12 Jac. I. (he was then a knight) he was elected for Lynn Villa, Norfolk. When Charles came to the throne, we find him a Member for Orford, Suffolk, in both the Parliaments held in 1625, in the first year of the reign.[1]

In the first year of King James, he was made Attorney-General to Anne of Denmark, Queen Consort to James the First. He had her hand and signet to practise within the bar, and to take place next to the King's Counsel. His Solicitor-General was Mr. Lowther.[2]

On the 25th of June, 1614, he was made a Serjeant, and, on the 4th of January 1616, a King's Serjeant.[3] In the "History of Framlingham," above referred to, it is said that King James knighted him in the first year of his reign, and that he was made the senior Serjeant-at-Law in Trinity Term of that year.[4] But this is evidently a mistake, as far as the *Serjeant* is concerned. He was probably knighted in the first year of the king. And this well agrees with the inscription on the tomb,[5] when read carefully. "*Then* knighted, and *afterward* made the King's senior Serjeant."

He died on the 15th of August 1636, in the sixty-

[1] Willis's "Not. Parl." vol. iii. pp. 138, 171, 204, 214; Bond's "East and West Looe," p. 238.

[2] Strickland's "Queens of England," vol. v. p. 108 note.

[3] Dugd. "Chr. Ser." p. 105; Wynne, pp. 57, 58.

[4] "Hist. of Framlingham," as above, p. 203.

[5] *Post.*

fourth year of his age, about a week after the making of his will, and was buried in the south aisle, adjoining to Framlingham chancel, where a fair monument is erected to his memory.[1]

"In the middle light of the most easterly window, on the south side of the chancel, are the arms of Sir Robert Hitcham, painted in oil colours on the glass, 1712. That window, and all the rest in the chancel, being then new glazed, and a dial on the south-east buttress painted."[2]

The situation of the principal monuments in the church is engraved on a plate, in which the tomb of Sir Robert is marked P.[3]

And a little farther in the volume an engraving of his tomb appears, amongst those of the highest rank of nobility.

P. "More southward, is a magnificent tomb, consisting of a table of black marble, sustained on the shoulders of four angels of white marble (their hair and wings gilt with gold), each having one knee to the ground. Under the table is an urn, after the Roman fashion, enriched with a mantling and two cherubims. At the west end is this Inscription in gold letters, upon black marble:—

[1] "Hist. of Framlingham," as above, p. 207; and see the portrait prefixed to the book.

[2] *Id.* p. 296.

[3] Facing p. 297.

"READER.

"In Expectacion of the Coming of ovr Lord Jesus, Here Lyeth ye Body of Sr. Robert Hitcham Kt. Borne at Levington in Ye County of Svff.—Schollor in ye Free Schoole at Ipswiche, & sometime of Pembroke Hall in Cambridge; and after of Grayes Inne; Attorney To Queen Anne In ye First Yeare of King James, then knighted; and afterward made ye King's Senior Serjeant at Lawe, and often Judge of Assize: Aged 64 Yeares, Dyed

"The 15 Day of August Anno 1636.

"The Children not yet borne, with gladnesse shall
Thy pious Actions into Memorye call;
And Thou shalt live as long as there shall bee,
Either Poore, or any vse of Charitie."

At the east end are his arms, gules on a chief or, three torteauxes. His crest, a buck saliant proper attired or, among leaves and the trunk of a tree, also proper. And upon the upper edges,—Fr. Grigs fecit anno 1638. These two last monuments are likewise fenced, and adorned with a screen of wood, painted of a blueish colour, and enriched with the arms and crest of Hitcham.[1]

[1] "Hist. of Framlingham," as above, pp. 303, 304.

His portrait in Serjeant's Inn Hall was engraved by E. Harding.[1]

Mr. Loder has likewise contributed a plate containing an engraving of Sir Robert's portrait. It is prefixed to his "History of Framlingham," and dedicated to "The Masters, Fellows, and Scholars of Pembroke Hall—Trustees of Sir Robert Hitcham's Charities."[2]

He bore arms gules, on a chief or, three torteaux. These were confirmed to him in 1604.[3]

He was able through his gains as a lawyer to purchase a considerable estate, "the fair Manor of Framlingham," of the Earl of Suffolk. Fuller says, that Sir Robert had some difficulties in establishing his title. In the quaint words of the biographer, there were "knots which would have made another man's axe turn edge to hew them off." But "a sharp wit, strong brains, powerful friends, plentiful purse, and indefatigable diligence," carried him through the struggle.[4] Fuller believed that gratitude to Providence for the safe "landing" of this estate, caused the eminent Serjeant to leave a great part of his estate to pious uses, principally to Pembroke Hall, Cambridge.[5]

"The first Court that he kept for the Manor of Framlingham was in the 16th year of the reign of

[1] MS.

[2] "Hist. of Framlingham," with the Inscription which we have just recorded.

[3] MS. "Hist. of Framlingham," as above, p. 203.

[4] Fuller's "Worthies," ed. Nichols., vol. ii. p. 346.

[5] *Ibid.*

King Charles the First.[1] And, about a year after, by his testament, bearing date the 8th day of August 1636, he did dispose of the Castle, Manors, and Demesn-Lands of Framlingham and Saxted, and the Hundred of Loes, &c.,"[2] to the pious uses mentioned in his will.[3]

A list of the Masters of his School will be found in the "History" we have just quoted,[4] and this note is appended: "Within a few years, a substantial, new, brick-built school-house hath been erected, adjoining to, and forming, the north wing of Sir Robert Hitcham's almshouse: the former house situate in the market-place having been taken down, for the better accommodation of the inhabitants."[5]

An ordinance for settling and confirming the disposal of this property was issued in 1653, by command of the Lord Protector.[6]

His remarkable will, above alluded to, possesses some interest. It is quaint, curious, and fraught with caution. The commencement is but the introduction to the religious disposition of his wealth.

He, probably, was never married.

"In the NAME of the Glorious and Incomprehensible TRINITY, I, Sir ROBERT HITCHAM,

[1] "Hist. of Framlingham," as above, p. 203. [2] *Ibid.*
[3] See above. [4] "History," p. 207. [5] *Id.* p. 207, n.
[6] "London: Printed by Henry Hills and William Du-Gard, Printers to His Royal Highness the Lord Protector, 1654." It will be found in the Bodleian Library, at the end of the "History of Framlingham."

of Ipswich, in the County of Suffolk, Knight, the King's Majesties Serjeant-at-Law, this present Monday, being the 8th of August, 1636, in the 12th year of King Charles, Do make this my last Will and Testament in Writing as followeth:—First, He provides for the payment of his debts. He directs that his Lease of the Manors of Walton and Felixstow, and his houses in Ipswich, jewells, houshold stuff, and plate, there and elsewhere, and his goods, should be sold for the payment of "my" debts and legacies. He then devises, subject to conditions, his Manor of Burvall's, in Levington, the Impropriation, mill, fish-ponds, park, and other roialties, &c., to his nephew, Robert Butts, upon conditions; and his farm, called Watking, to his sister. He goes on and leaves his Castle and Manors of Framlingham and Saxted, &c., to the Vse of the Masters and Fellows of Pembroke-Hall, in Cambridge.

"One condition was: that a School-House should be built at Framlingham, and a Master appointed, with Forty Pounds by the Year, during his life, to teach Thirty, or Forty, or more of the poorest and neediest Children of the said Towns of Framlingham, Debenham, and Coxall, to write, read, and cast accounts, as the said College shall think fit; then to give them, Ten Pounds apiece, to bind them forth Apprentices, at the discretion of the Four Senior Fellows of the said College; and the said Schoolmaster not to take any other, upon Penalty of loosing his Place and Stipend."

Then follows "A CODICIL of my LEGACIES."

"First, I give unto my honourable friend, the Lord Keeper, £100, and to his lady £50, and to my Lord Privy Seal £50, to be bestowed by my Executors in such pieces of plate as they shall think fit."

Several other legacies follow.

"And of this, my last Will and Testament, I do make Matthew Wren, now Bishop of Norwich, my *Supervisor;* and Richard Keeble, and Robert Butts, my Executors, giving them, my Supervisor, and Executors £50 apiece. And if the said College shall wilfully refuse to perform this my Will: Then, I will, that this my Devise unto them shall be void; and I do Devise the same unto Emanuel College, in Cambridge, to the same Uses. And so I commit my soul into the hands of the said Holy and Blessed Trinity, believing to be only saved by the death and passion of Jesus Christ, and my sins to be washed away by his blood; and my body to be privately buried in the Church of Framlingham, in one of my Isles there, only with a fair stone, and such like over it; the same to be buried ten feet in the ground, and the same not to be stirred, or hurt."[1]

[1] Hawes's "History of Framlingham," by Robert Loder, pp. 203—257.

SIR FRANCIS MORE, OR MOORE, Kn^t.

Serjeant-at-Law, 1614.

FRANCIS MORE was a son of Edward More, gentleman. His mother was the daughter and heir of Mr. Hall, of Tilehurst, in Berkshire. He was born at East Hildesly, or Ildesly, near Wantage, in 1558. His education began at Reading, after which, in 1574, he was entered at St. John's;[1] but he seems to have left without a degree, and began the law as a student at the Middle Temple.

In due time he advanced considerably in his profession, and was noted for his integrity.

He was a frequent speaker in Parliament.[2]

In the first year of Queen Mary we find a Francis Moore sitting for Newcastle-under-Line; but this could not have been the Serjeant. However, in 31 Elizabeth, 1588, Francis Moore, of the Middle Temple, sat for Boroughbridge, and he, no doubt, was the Speaker mentioned by Wood.[3]

[1] Whether Oxford or Cambridge, we are not told. It must have been *Oxford*.

[2] Wood's "Athenæ," by Bliss, vol. ii. p. 304.

[3] Willis's "Not. Parl.," vol. iii. p. 120.

In 1601 the name of Francis Moore appears as a Member for Reading,[1] and, as Sir Francis was at school there, it was probably his wish to represent the place of his early days.

In 1603 he was again elected for Reading;[2] and, for the last time, in 1614.[3] In the next Parliament (1620) other names are on the Roll.[4]

When King James came to the Crown Mr. More was appointed Counsel to the University of Oxford, and their Under-Steward; and although he did not graduate there, the degree of M.A. was conferred upon him, by diploma, in 1612.[5] In 1614 he was made a Serjeant,[6] and in 1616 he was knighted at Theobalds.[7]

On the 20th of November, 1621, Sir Francis died, aged sixty-three years, and was buried in a vault under the Church of Fawley, near Wantage. In this vault "his posterity (who are baronets)," says Wood, "living in that parish, have been since, and are hitherto, interred, as I have been instructed by his grandson, Sir Henry More, Bart.[8]

"There are two heads of More, one by Faithorne, the other by F. V. W., both in folio."[9]

Sir Francis married Anne, daughter of William

[1] Willis's "Not. Parl.," vol. iii. p. 146.
[2] *Id.* p. 156.
[3] *Id.* p. 167.
[4] *Id.* p. 176.
[5] Wood's "Athenæ," by Bliss, vol. ii. p. 304.
[6] *Ibid.* Wynne, p. 58.
[7] Wood, p. 305.
[8] *Ibid.*
[9] *Ibid.*

Twithy, Esq., of Boreham, in Essex. By her he had—1, Francis; died at Lyons. unmarried; 2, Henry, aged 21, in 1617; 3, William; 4, Henry Moore, Esq., of Fawley, Berks. He was created a Baronet May 21, 1627; but the title became extinct in 1807, upon the death of his descendant, Sir Thomas.

William, who married Mrs. Blount, had one son and four daughters. Francis, the son, married Mary, daughter of Edward Carey, Esq., of Torr Abbey.

Margaret married Sir Geoffry Palmer, the Attorney-General, whence it was that the Serjeant's MSS. fell into his hands.

Anne was married to John Jerningham, eldest son of Sir Henry Jerningham, the first Baronet, of Casey Hall, Norfolk.

Elizabeth married Sir Richard Blount, of Maple, Durham, Oxon.

And Dorothy died unmarried.[1]

His works were "A Collection of Law Cases," printed in 1663, from the original in French, then in the hands of Sir Geoffry Palmer, Attorney-General to Charles the Second, "which is the same, as I take it," says Wood, "written fairly with the author's own hand, in folio, that was lately in the library of Arth. E. of Anglesey."[2]

"A Learned Reading on Charitable Uses in the

[1] Burke's "Extinct Baronetage," p. 365. Tit. Moore, of Fawley.

[2] Wood's "Athenæ," by Bliss, vol. ii. p. 305.

Middle Temple Hall, 4 Jac. I.," published in 1676, by George Dake, Esq., of the Inner Temple.

It is said, that he subsequently drew the Bill respecting Charitable Uses, which passed into an Act.[1]

[1] Wood's "Athenæ," by Bliss, vol. ii. p. 305.

SIR THOMAS CREW, Kn^t.

Serjeant-at-Law, 1623—King's Serjeant, 1624.

CRUE, or Crewe Township and Manor, in Cheshire, were early possessions in England.

"At the time of the Domesday Survey the Township belonged to Richard de Vernon, Baron of Shipbrook." But it passed into the Fulleshurst family in the reign of Edward III. by marriage. And their descendants continued to hold it till the time of Elizabeth, when it was sold to Sir Christopher Hatton, the Chancellor.[1]

The Lady Elizabeth Hatton married Sir Edward Coke, and they joined in selling this Manor of Crewe to Sir Ranulpe Crewe about the year 1608. He was Chief Justice of the King's Bench, and thus "becoming repossessed of the estate which, for near three hundred years had had no Crewe for its owner, he built the magnificent seat there, which has ever since been the seat of the family."[2]

After all, there is a doubt about the vendor; and

[1] Ormerod's "Cheshire," vol. iii. p. 166.

[2] Foss's "Judges," vol. vi. p. 290. Ormerod, as above.

Ormerod thinks that the Chancellor's nephew, Sir William Newport Hatton, was the person.[1]

The Chief Justice was discharged for his hesitation to sanction the payment of ship-money, at which, Fuller observes, "he shewed no more discontentment than the weary traveller is offended when told that he is arrived at his journey's end."[2]

Thomas Crew was a younger brother of the Chief Justice.[3] He is described of Stene, Northamptonshire,[4] an estate which he is said to have purchased.[5] Their father, John, is said to have been a tanner at Nantwich.[6] He died in 1598. Thomas was born in 1565.

The father of these Crews was John Crewe, of Crewe, who had two sons, the Chief Justice and Sir Thomas.[7]

James the First, not approving his espousing the cause of the people in the English Parliament, sent Thomas to Ireland. He was chosen Speaker in that country in 1623, but his speeches there gave no greater satisfaction to the King than those in England.[8]

[1] Ormerod, vol. iii. p. 125 n., 166 n.

[2] "Worthies of England," ed. 1662, p. 178.

[3] Nichols's "Leicestershire," vol. iv. p. 825. "Of Stene and Hinton, *jure ux.*"—Baker's *Northamptonshire*, vol. i. p. 685.

[4] Ormerod's "Cheshire," vol. iii. p. 170.

[5] Phillips's "Grandeur of the Law," p. 26.

[6] Foss's "Judges," vol. vi. p. 289.

[7] Nichols, as above, vol. iv. pp. 303, 839.

[8] Noble's "Memoirs of the Cromwell Family," vol. i. p. 412.

Thomas Crew must have had some connection with Banbury; although Chamberlain, of Gray's Inn, was the first Recorder of that town.

In 1628 we find an entry of "A New Year's Gift to Thomas Crewe, £2."[1]

It is seldom that we can give any account of the forensic labours of the old Serjeants independently of the criminal trials. We have, however, in the legal profession, a practice of laying cases before counsel for their opinion, either for the satisfaction of clients, or with a view to future proceedings. To many advocates, especially to some who do not appear much in Westminster Hall, this practice is by no means a fruitless source of emolument.

We have, before us, an opinion of Sir Thomas Crew, and what is still more curious, one in opposition to John Walter, the eminent lawyer in Charles the First's reign, and, afterwards, Chief Baron of his Court of Exchequer.

The case which Sir John Townesend sent to the Hospitall of St. Bartholomewes:—

"The hospitall or fraternitye of St. Bartholomewes nere the towne of Sandwich, and the mannors, lands, tenements and hereditaments thereunto belonginge, were given unto K. Edward the 6th by statute of the first yeare of his raigne, and vested in the actuall possession and seisin of the said kinge. For by divers

[1] Beesley's "History of Banbury," p. 281, note.

recordes it appeares the same was a fraternitie, which is within the direct words of the said statute. Alsoe a certificate of the possessions belonginge unto the same is extant in the augmentacion office.

"The said Hospitall and all the possessions at any tyme belonginge unto the same are graunted unto certaine patentees, in fee farme, by his majestie att the suite of the right hon. James Lord Viscount Doncaster, to bee held in free socage as of the mannor of East Greenwich, rendringe to his majestie 26s. 8d. per ann.

"The house and demeasnes of the said hospitall shal bee sould unto the pretented master and brothers and sisters, if there bee any, att reasonable rates:

"And the seuerall farmes, lands, or tenements to the pretended leassees thereof, who are immediate tennants to the said fraternity, if they come unto Sir John Townesend, at his house in Drury-lane, before the second daie of february next; otherwise hee will sell them to any other that will purchase the same.

"Question.—Whether this Hospitall of St. Bartholomew's nowe beinge, and tyme out of mynde havinge bin, imployed to the mainteynance of poore people, and not to any superstitious use, bee given to the kinge by generall words, 'fraternities, brotherhoods and guilds?'

"[Opinion].—It hath bene ajudged that hospitals, which by their foundacion were not appointed to the

maintenance of superstycious uses, are not geven to the king by the statute of 1st E. 6th, and this, as ys alledged, ys of that nature.

"JO. WALTER.

"QUESTIONS TO COUNSEL.

"Whether the Hospital of St. Bartholomew being certified and upon record can be concealed from the crown?

"And, whether the king be not actually seized of the same by vertue of the said act, and may graunt a good estate thereof in fee?

"Admitting it be superstitiously founded, or within these general words 'fraternities brotherhoods and guilds,' then, whether it be not ayded by the last provisoe of the statute 1st E. 6th, c. 14; the Hospital hauinge a confirmacion from the archbishop of Canterbury, which is confirmed by the letters patents of kinge H. 8th, in the 27th yere of his reigne.

"ANSWERS.

"The certificate was 37th H. 8, and it may be there was an intention to have donne somthing; but the king during his life did nothing in it, neither was there any suppression or dissolution hereof in his tyme, and soe not touched by the statute of 37th H. 8th. And for the statute of 1st Ed. 6th, of

chauntryes, this lay Hospitall consisting of a master and poore people, and noe superstition in it, it is cleere out of the said statute, and included within none of the branches of that lawe; neither was their ever any inquisition found theirof, that appeeres, nor other evidence to indure any superstition; and soe both out of the preamble, body and title of the statute, and continued to the good use of the poore and noe wise within the reache and compas of the statute.

"The archbishop's confirmation adds no strength to the possessions in poynt of tytle, but inureth as a dispensation, and to maynteyn the priviledges, as grounded upon the statute of 25th H. 8th, being above £4 in the . . . . and the king's patent is but in nature of a confirmation of this dispensation, and not a patent of the lawe, nor inureth as a confirmation of the lawe, and out of the intent and compasse of the proviso in the statute of 1st E. 6th, as I take it.

"THO. CREWE."

["NOTE.—Sir John Waltere was of the contrary opinion; viz., that the letters patent of H. 8th are within the last provision of the Statute of 1st E. 6th, Car. 14, and soe made good; admitting it were given to superstitious uses. But for this poynt he gave his opinion suddenly; but he took tyme to consider of the first poynt or question."[1]]

[1] "Collection for a History of Sandwich," p. 95.

Mr. Crew was made Serjeant September 21, 1623, and on the 20th of February, 1624, a King's Serjeant.[1] He probably sat for Lichfield in 1603, 1 Jac. I. He was returned for Northamptonshire in 1614, 12 Jac. I., and again in 1620, 18 Jac. I.; for Aylesbury in 1623, 21 Jac. I., when he was Speaker of the Irish Parliament, and for Gatton 1625, 1 Car. I., being then the Speaker in England.[2] But, in the next Parliament, Sir Heneage Finch, Member for the City of London, was elected Speaker,[3] and we do not again find Sir Thomas in Parliament.

He died on the 31st January, 1634, in London, at the age of sixty-eight.

"He was one of the Lords Justices of Ireland. By his last will he bequeathed £100 legacy to all his grand-children, and named them, which his heir-at-law, John Crewe, Esq., gave to my Lord (the Bishop), who was born only six hours before his grandfather died, but unknown to him. His abilities were so great as to be proverbial."[4]

And so, according to the anonymous author, was his integrity.

> "Would you have your cause go true,
> Take senior Crooke and junior Crewe."[5]

"King Charles's opinion and saying of him was:

[1] Wynne, p. 59.

[2] Willis's "Not. Parl.," vol. iii. pp. 163, 171, 181, 187, 204.

[3] *Id.* p. 212.

[4] "Memoirs of Bishop Crewe," by an anonymous author.—Nichols's *Leicestershire*, vol. iv. p. 825.

[5] *Ibid.*

'Thomas Crewe is against me, yet he is an honest man.' "[1]

His father had a similar testimony.

Speaking of displaced Chief Justices, it was said,—

> "Renowned Cooke, proud Mountague,
> Grave Sir James Leigh, and honest Crewe.
> Two were preserved, two set aside,
> And in their room upstart Nicke Hyde."[2]

Sir Thomas married Temperance, the daughter and co-heiress of Reginald Bray, of Stene and Hinton,[3] Northampton, with whom he had the Manor of Stene, which, with other possessions, came to Lord Crewe, the eldest son.[4] She was baptized on the 6th Nov., 1580, Æt. 3 [Esc.], and she died on the 25th, and was buried on the 29th October, 1619, Æt. 37.[5]

"They had four sons, whose ages amounted to three hundred and twenty years before they died."[6]

John, the eldest, Member for Northamptonshire, and a Parliament man, who took the Covenant, had a yearly estate of nearly £4,000 per annum.[7] He was made Lord Crewe of Stene, April 20, 13 Car. II.[8]

"An. 1660.—My Lord Crewe, 'that was this John

[1] M.S. cited.—*Ibid.*

[2] Walter Yonge's "Diary," p. 106. Coke and Crew are discharged; Mountague and Lea became, in succession, Lord High Treasurers.

[3] Ormerod's "Cheshire," vol. iii. p. 170; Noble's "Memoirs of the Cromwell Family," vol. i. p. 412.—Baker's *Northamptonshire*, vol. i. p. 685.

[4] Noble, as above.

[5] Baker, as above.

[6] Nichols's "Leicestershire," vol. iv. p. 825.

[7] *Ibid.*

[8] Ormerod, as above.

Crewe,' created Baron of Stene, and cost him nothing; the Chancellor of the Exchequer's place offered him, and kept void for him three months, but he would not take it." He died December 12, 1697, aged eighty-one years.[1]

The conduct of the father of these two considerable lawyers in their youth is worthy of a passing notice.

He was rather reduced in his means in 1588, when Randolph (the Chief Justice) was born. The family estate had (as we have said) passed into other hands, and obeyed the dictates of another name. Mr. Crewe strove to excite the ambition of his sons to regain these lost acres. Far from yielding to his melancholy lot, far from shunning, or being ashamed of his condition, he pointed out to the lads the "Manor of Crewe, a large section of Cheshire." He succeeded in firing their imaginations with the vision of their recovering it, and again becoming "Crewes of that ilk."

With practical sense he entered both at Lincoln's Inn. They had been scholars at the same place, and graduates of the same college. The father's predictions seemed to approach verification. Randolph and Thomas became Serjeants, and each was, in his day, the Speaker of the House of Commons, and both were knighted. Randolph, at all events, never lost the

[1] Ormerod's "Cheshire," vol. iii. p. 826. See a full account of the family in Nichols, vol. iv. p. 825, &c. And, especially of the Bishop, who died September 18, 1728, Ætat. 88, upon which the title became extinct.—See also Noble's *Granger*, vol. i. p. 81.

feeling of his paternal spur. He maintained likewise that which became a moral hope, and "he saved every broad piece[1] he could lay by, without becoming mean." It is attributed to the old gentleman of Nantwich that he could not help remembering the hereditary dreams he had imparted, and the probable fulfilment of his cherished hopes.

We are not deviating from the life of Sir Thomas by recording a fact well worthy of mention, that after the retirement of his brother from the chief seat in the King's Bench for his hostility to ship-money, the Manor of Crewe came into the market for sale. Either brother had the means, either the ambition to have it. But the preference was naturally yielded to the eldest, and he became "Crewe of that ilk." Sir Randolph exclaimed, "How delighted my poor father would be if he could look down and see his fond wish accomplished." "Here he built a magnificent new manor-house, which was admired and copied by the men of Cheshire.[2]

[1] The royalist coin of Charles I.

[2] Cheshire.—"Its Historical and Literary Associations," by Barlow, of Gray's Inn. Manchester. 1855, pp. 42—45.

JOHN HOSKINS.

Serjeant-at-Law, 1623.

If a learned Serjeant had no further claim to be inserted in our list than obtaining an acquittal upon an indictment for not repairing the pavement before his door, he could hardly have been admitted. John Hoskins, although a lawyer, did not escape a demand of this kind. But he was shrewd enough to defeat the prosecution without an effort. For in the charge against him it was not said how he was liable, nor that he had any house in the place, nor that he lived there, if he had any, nor that he had any property at all on the spot. There might, at all events, have been a tenant, and then the Serjeant was not bound to do repairs which belonged to his lessee.[1] But Serjeant Hoskins was one of the most facetious men of his day[2]—a companion of wits. He was to be found in the company of Selden and Ben Jonson; and Prince relates that these three very much admired Mr. Richard Martin,

[1] This will be found in an old book of "Law Reports," by Judge Godbolt, published in 1653.

[2] Wood's "Athenæ," vol. ii. p. 401.

the Recorder of London,[1] whose tragical adventure with Sir John Davys in the Temple Hall was the stirring incident of the day.[2]

John Hoskins, a lawyer and poet,[3] was born at Mowmton, in the parish of Lanwarne, Herefordshire, in 1566. His father's name was John Hoskyns, or Hoskins, and, that of his mother, Margery, daughter of Thomas Jones, of Lanwarne.[4] Wood adds, that Mowmton formerly belonged to the Priory of Lantony, near Gloucester, to the prior of which place his ancestor bore the office of Pocillator.[5]

John, senior, as he was called, his brother's name being also John, was intended for a trade, but his father, being struck by his abilities and memory, changed his views, and, at ten years of age, or soon afterwards, was initiated in the Greek Grammar by his own importunity. Wood says, that his memory was prodigious, and his body very strong.[6]

He was accordingly sent to Westminster, where he remained for one year.[7] During that time, however,

[1] Prince's "Worthies of Devon," 1810, Add. Notes, p. 577.—Wood's *Athenæ*, vol. ii. p. 250.

[2] "Archæologia," vol. xxi. p. 108.—Chalmers's "Bio. Dict.," vol. xi. p. 313.

[3] "Old Serjeant Hoskins, *the poet*, grandfather to Sir John Hoskins, Bart." "Mine honoured friend," says Aubrey, "was well acquainted with Nicholas Hill, one of the most learned men of his time, a great mathematician, philosopher, poet, and traveller."—Aubrey's "Letters and Lives," vol. ii. pp. 393, 394.

[4] Wood's "Athenæ," vol. ii. p. 208; Chalmers's "Biog. Dict.," vol. xviii. p. 200.

[5] Wood, vol. ii. p. 624. "Pocillator"—"cup-bearer."

[6] *Ibid.* Chalmers, as above.

[7] Wood, as above.

his father had, probably, observed that he himself was akin to William, of Wykeham, whence his son's translation to Winchester was a matter of policy. At that time Winchester was the nurse of New College men.[1]

John Hoskins did not disappoint his parent. In 1584 he was probationer Fellow of New College, and two years afterwards was admitted actual Fellow.[2] In February he was admitted to the degree of M.A.; but, in the act following, being *terræ filius*,[3] he became so bitterly satirical as not only to be denied the completion of his degree as Regent Master, but likewise to incur the misfortune of being expelled from the University.[4]

He was thus thrown upon the world, and he went into Somersetshire, and taught a school for one year at Ilchester, and there compiled a Greek Lexicon as far as the letter M.[5] But at the moment when folly seems to have wrought its highest work upon the

[1] A school-boy story is told by Wood as to his memory. He had neglected to do his exercise through idleness, and knowing that the rod awaited him, he looked over the shoulder of a school-fellow who had just done his, and trusted to his remarkable power. The master asked for the exercises, and called first upon Hoskins, who said he had lost it, but would repeat it without book, if that would do; and so, having given sixteen or twenty of the other boys verses, he was excused. Then the other boy was called, and shewed the verses which Hoskins had just repeated, upon which the master called him a thief, and whipped him.—*Athenæ*, vol. ii. p. 627.

[2] Wood, as above.

[3] Wood. "Verus Socius." His degrees were: B.A., May 6, 1588; M.A., February 26, 1591. John Hoskyns, junior, his brother, B.A. June 27, 1606; LLD., April 28, 1613.—Wood's *Fasti*, Ox., vol. i. pp. 242, 255, 316, 353.

[4] Wood and Chalmers, as above.

[5] Wood.

unthinking youth fortune steps in to the rescue, and displays her golden chance—"Sævo læta negotio." Benedicta, daughter of Robert Moyle, of Buskwell, Kent, and the rich widow of Mr. Bourne,[1] became captivated with the young man's attentions, and enabled him to enter himself as a student at the Middle Temple.[2]

In due time he was called to the Bar.

In 1603, 1 Jac. I., he sat for Hereford city, and again in 1614, 12 Jac. I.[3] Here he got into trouble; for, speaking his mind, as Wood relates, concerning the Sicilian Vespers, his "desperate allusions" caused his committal to the Tower on the 7th of June. He was there examined whether he well understood the consequence of that Vesper to which he alluded." Whereupon, making answer that he "had hint thereof, and, afterwards, a general information from Dr. Lionel Sharp, of Cambridge; that doctor, therefore, with Dr. Sir Charles Cornwallis, were imprisoned in the Tower on the 13th of the same month."[4] He himself lay in prison for a year.[5]

Nevertheless, he was elected Lent Reader of his inn in 1619, and on the 26th of June, 1623, he was called to the dignity of the coif.[6] Soon afterwards he

[1] Wood's "Athenæ," vol. ii. p. 625.
[2] *Ibid.*
[3] Willis's "Not. Parl.," vol. iii. p. 160.
[4] Wood's "Athenæ," vol. ii. p. 625.
[5] Chalmers's "Biog. Dict.," vol. xviii. p. 201.
[6] Dugdale's "Chr. Ser.," p. 107.

was made a Welsh Judge, or Justice itinerant, and one of the Council of the Marches. He was again returned for Hereford in 1628, 3 Car. I., being then a Serjeant;[1] but he did not sit in the Long Parliament, having died in 1638.[2]

Serjeant Hoskins died at his house, in Morehampton, Herefordshire, on the 27th of August, 1638, aged seventy-two. He was buried on the south side of the choir, in Dowr Abbey, in that county.[3] An altar monument was erected over his grave, with twenty-four verses engraven upon it.[4] He, therefore, could not be the John Hoskyns mentioned by Wood as belonging to a club with the famous Harington, the author of "Oceana," at the Turk's Head, in the New Palace Yard, Westminster, in 1659.[5]

This was a facetious Serjeant. He associated with Camden, Selden, Daniel, Dr. Donne, Sir Henry Wotton, and with Sir Walter Raleigh, when he and Sir Walter were confined together in the Tower.[6] Wood adds Sir Benjamin Rudyard, and Mr. Recorder Martin. With Sir Benjamin he fought a duel, and hurt him in the knee; but they were soon reconciled.[7] Sir Benjamin was held in high value by John Hoskyns, senior, amongst others of note.[8]

[1] Willis's "Not. Parl.," vol. iii. p. 221.
[2] There is an error in the Index to Willis.
[3] Wood's "Athenæ," vol. ii. p. 627. [4] *Ibid.*
[5] Wood, vol. iii. p. 1119.
[6] Chalmers's "Biog. Dict.," vol. xviii. p. 201. Wood, as above.
[7] *Id.* p. 626. [8] *Id.* vol. iii. p. 456.

He wrote the Greek Lexicon, as far as M, which has been noticed, and several epigrams and epitaphs. Wood says, that he "had a book of poems, neatly written, bigger than those of Dr. Donne, which were lent by his son, Sir Benedict (who was a man that ran with the usurping times), to a certain person in 1653; but he could never retrieve it."[1]

"Mr. Hoskins Dreame" from the Ashmolean MSS.[2] is given at length by Anthony à Wood.[3] There is likewise an imperfect tract amongst the Harleian MSS.[4] "De epistolis conscribendis" is attributed to him,[5] although, perhaps, incorrectly.[6] But no doubt can exist as to the authenticity of his opinion upon Lord Bolinbroke's attainder, which will also be found amongst these manuscripts.[7] Moreover, he revised Sir Walter Raleigh's "History of the World," and is said to have "polished Ben Jonson, and made him speak clean."[8]

He must have been sensible of his marvellous gift, which saved him the whipping, but ungraciously delegated it to another, for he published "The Art of Memory."[9]

[1] Wood, vol. ii. p. 626.

[2] 781, p. 129.

[3] Wood, pp. 627, 628. The lines were presented by his wife to the King. *Id.* p. 627; probably during his imprisonment.

[4] 850, 1.

[5] Wood, p. 629.

[6] For Wood in another place places this tract to the credit of John Hoskyns, *junior*, who was the *brother*, and a clergyman.—*Athenæ*, vol. ii. p. 510.

[7] No. 1,286. See "State Trials," vol. xv. pp. 993—1,007.

[8] Wood, p. 626. Chalmers, vol. xviii. p. 201.

[9] Wood and Chalmers.

His grandson, Sir John Hoskins, Knight and Baronet, and Master in Chancery, possessed some law treatises of the Serjeant. Sir John was one of the first members of the Royal Society, and President in 1682.[1]

[1] Chalmers's "Biog. Dict.," vol. xviii. p. 201.

ROBERT CALLIS, OR CALLICE.

Serjeant-at-Law, 1627.

[From Edward Peacock, of Bottesford Manor, Brigg, Lincolnshire, the Author has derived much information concerning Callis.]

A LAWYER may attain to high excellence and reputation in his profession, yet, in his own day, he may be little known beyond the forum and his private circle. Sometimes he happens to be an author of eminence, or he may have chosen a subject peculiar to his own views, his practice, his experience. Such was Robert Callis. His famous treatise is called, "A Reading on the Statute of Sewers," a wonderfully quaint "piece" (to use the language of old times,) but of considerable authority. That distinguished Judge, Sir Francis Buller, called it "one of the best performances on that subject."[1] And the Lord Chief Justice Cockburn, according to the "Law Journal," has pronounced it "a work of considerable weight and authority."[2]

Callis, when interpreted, signifies an almshouse, or

[1] "Law Reports," by Durnford and East, vol. ii. p. 365.

[2] 31 "Law Journal," Queen's Bench, p. 273. Herne also read on Sewers sixteen years afterwards.

if "Calis" be adopted, the old form of "chalice." "The word is not given in Baily, nor Richardson. It appears in Holloway's and Halliwell's "Provincial Dictionaries," in the plural, and is spelt "Calasses." Some have suggested, "the steeple of Calais."[1]

However, Callis, the writer, and a Commissioner of Sewers for his own county, Lincolnshire, was born about 1574. "William Calis[2] of Aslaby was a member of the family long settled at Little Hale, in that county [Lincolnshire.] It is probable that he was a younger son of Henry Callice, of the latter village. The history of this family is involved in great obscurity. The pedigree does not occur in any of the Lincolnshire Herald's visitations. This is the more singular, as in 1634, when Sir Richard Saint George's visitation was made, Robert Callis, of Dalderly, had risen to a high position as a lawyer."[3]

On the 13th of August 1596, "Robert Callis, of Dalderly," C°. Lincoln, was admitted a member of Gray's Inn.[4]

In 14 Jac. I. (1617), Mr. Callis was Lent Reader at Staple's Inn, and Autumn Reader of Gray's Inn, 20 Jac. I. (1623.)[5] His reading consisted, at Staple's

[1] "Notes and Queries," 5, vol. i. p. 466.

[2] "Item ij.: vestment—sold Wm. Calis," &c.—Peacock's Church Furniture, p. 30, n.

[3] "English Church Furniture and Decorations," by Edward Peacock, F.S.A., p. 30, n.—See the Pedigree at length, pp. 31, n. 32, n.

[4] Peacock, p. 31, n. [5] *Id.* p. 30 n.

Inn, of "The Case and Argument against Sir Ignoramus, of Cambridge."[1]

He was called to be a Serjeant on the 12th of April, 3 Car. I. (1627), and gave rings, inscribed "Regis Oracula Leges."[2]

In 1630 he was placed on the Commission of Sewers for Lincolnshire, and on the 10th of January, 1634, was made a Justice of the Peace.[3]

His domicil was Lincoln. The house where he dwelt was, until lately, in existence there. An eye-witness gives some account of the curious old dwelling where the reverent old Serjeant dwelt. "In some of the windows were fragments of old painted glass, amongst which were some heraldic emblazonments. Several of these windows, square-headed, are still preserved, being built up and glazed in modern walls. There were," the writer says, "*two coats* of arms." He goes on: "It [the house] stood in a locality once select, and eligible for good residences." It seems to have been of very ancient date, and went by the name of Kyme Hall, being possessed by the family of Keyner, the immediate predecessor of Callis. A drawing by Grimm (1786) of the gateway and the older part (lighted by two painted windows,) of this mansion is preserved in the Bodleian. "The old mansion was known also by the name of the 'Old Hospital.'"[4]

[1] Peacock, p. 31, n.
[2] Dugd. "Chr. Ser." p. 109; Wynne's *Serjeant-at-Law*, p. 60.
[3] Peacock, p. 30, n.
[4] PS.

Speaking of "hospital," his very name signifies an abode consecrated to benevolence and charity. The old Serjeant is still remembered with regard and veneration in Lincoln. Williamson's *Callice*, or almshouse, has apartments for ten poor women, who have a weekly allowance of five shillings, arising from various legacies. All Saints, or Saint Peter's *Callice*, for men and women, is supported by incidental legacies and subscriptions from the Corporation. And there is also Hopkins's Callice or hospital.[1] All these institutions savour of the memory of a great and good man.

This eminent lawyer and writer died in 1641.[2]

His will was dated 30th of December, 1641, and proved at Doctor's Commons, 16th of May, 1642.[3]

He bore, quarterly, argent and gules, over all a bend purpure; they have all the appearance of an ancient bearing.[4]

He had a nephew, Robert, who was admitted a member of Gray's Inn, 12th of August, 1622:

"Sine *fine* quia nepos lectoris."

But not mentioned in his uncle's will.[5]

But it would appear from the pedigree which faithfully includes other members of the family, that the Serjeant was never married.[6]

There was a Thomas Callis, A.B. 1671; Thomas

[1] "History of the County of Lincoln," by John Saunders, junior. London and Lincoln, 1834, vol. ii. p. 332.

[2] Peacock, p. 31, n. [3] *Ibid.* [4] *Ibid.*

[5] *Ibid.* [6] See *Ibid.*

Callis of Jesus, Cambridge, A.B. 1714, A.M. 1720; and Henry Callis, A.M. 1660.[1] And there is the name of Callis in Berry's "Genealogies."[2]

"Besides his 'Reading on Sewers,' he wrote: 'The Case and Argument against Sir Ignoramus, of Cambridge.' In the title page he is described as 'of Graie's Inn, Esq^r., afterward Serjeant-at-Law, in his reading at Staple's Inn in Lent, 14 Ja. R.'[3] A MS. described as the author's autograph copy of the 'Reading on Sewers' was advertised for sale in a London bookseller's catalogue, about fourteen years ago" (1852.)[4]

His reading at "Grey's Inn," was in August, 1622, most probably at the time of his residence at Lincoln.[5]

[1] "Graduat. Cantabr." p. 83. [2] "Essex," p. 92.

[3] Peacock's "Church Furniture," p. 31, n.; *Notes and Queries*, 5, vol. iii. p. 204.

[4] Peacock, p. 31, n. [5] MS.

SIR JOHN GLANVILE.

Serjeant-at-Law, 1637—King's Serjeant, 1640—Again, 1660.

It is by no means displeasing to turn for a season from the stiff and solemn bearing of the Commonwealth men to spirits of a more genial character, whose attachment to their Sovereign was never questioned—who never considered whether a king could do wrong—who obeyed and did him homage in prosperity, and when the days of sorrow and struggle came, clung to him, whether for persecution, for exile, or for death. Policy, not to say subtlety, drew aside many royal-wishers, when the last hopes vanished.

Sir John Glanvile was born at Tavistock, in Devonshire, the second son of John Glanvile, Esquire, a Judge of the Common Pleas in the reign of Elizabeth.[1]

He was brought up to the desk as an attorney, but with the help of his father's notes, advanced himself so well as to become a counsellor. He was of Lincoln's Inn, where he was Lent Reader in 5 Car. I.[2]

In 1614[3] he was returned for Plymouth, and he sat

[1] Prince calls him Sir John, but this we believe to be a mistake. See the "Law Reports," of Sir George Croke. His epitaph is simply, "Memoriæ Johannis Glanvil," &c.—"Worthies," p. 425. He was the third son of John Glanvile, of Tavistock, and he married Alice, daughter of John Skerratt, of Tavistock, and widow of Sir Francis Godolphin. He died July 27, 1600. His monumental inscription will be found in Polwhele's "Cornwall," vol. v. p. 138.

[2] (1629) Dugd. "Orig." p. 255.

[3] 12 Jac. I.

for that borough in the second, third, and fourth Parliaments of James the First,[1] and again for the same place, in the first, second, and third Parliaments of Charles the First.[2] In the fourth, which was the Long Parliament,[3] he was elected for the City of Bristol. He had become a Serjeant-at-Law, and was Speaker of the House of Commons, retaining his Recordership of Plymouth.[4] In 1658[5] there is an entry by Willis[6] of John Glanvill, K^t^. as a Member for St. Germans, but as Serjeant Glanvile was not knighted till 1660, it is not easy to understand this return—as far as the Serjeant is concerned.

He was called to the degree of Serjeant-at-Law on the 20th of May, 1637.[7]

He now attached himself more faithfully to the king's service (for in the Parliament before 1640 he had been rather lukewarm as to the prerogative,) but his views being more in unison with the monarch's wishes, he was elected the Speaker of the famous Long Parliament. Honours quickly rewarded his activity in promoting the interests of royalty. On the 6th of July, 1640, he was made one of His Majesty's Serjeants,[8] and in the next year was knighted. He then, in 1643, followed the king to Oxford, and, with

[1] 1620, 18 Jac. I.; 1623, 21 Jac. I.

[2] 1625, 1 Car. I.; 1625, 1 Car. I.; 2nd Parliament in the same year. 1628, 3 Car. I.

[3] 1640, 15 Car. I.

[4] Willis's "Not. Parl." vol. iii. pp. 169, 178, 189, 200, 210, 220, 235.

[5] 11 Car. II. [6] As above, 287.

[7] Dugdale's "Chr. Ser." p. 111. [8] *Id.* p. 111.

many other eminent persons, was made a doctor of the civil law. But, notwithstanding, as far previously as in the year 1626, he spoke whilst on board a ship against a boundless prerogative, and was imprisoned.[1]

He made a very long speech in May, 1628, concerning levies of monies for supply, the liberty of the person, the billetting of soldiers or mariners, and Commissions for trial by the law martial. This was the famous petition of right into which the Lords had introduced some alterations, which the Commons opposed. Whatever might have been Sir John's subsequent political conduct, he spoke strongly upon this occasion for liberty.[2]

Glanvile met in the course of his business as a barrister with a singular client, who seems to have had some discourse with his advocate of a character quite apart from the litigation in which they were engaged. This was Matthew Hale. Burnet gives a confused account of a claim to Hale's estate by Sir William Whitmore, adding that his guardian was of a retired temper, and not made for business, so that he was obliged to leave the university and go to London.[3] If the suit were in the Court of Chancery, Burnet might well be not very clear. . . . . .

Hale's career had been, according to Burnet, doubtful. Being intended for a Puritan, he went to schools

[1] Prince's "Worthies of Devon," Add. Notes, p. 427.
[2] See his Speech, "State Trials," vol. iii. p. 200.
[3] "Life of Hale," p. 7.

where the masters taught the doctrines of the sect, and after his pupilage, he was sent to Magdalen Hall, Oxford, with Obadiah Sedgwick for his tutor. At first a laborious and clever student, he left his studies for stage-players, who happened to visit the university. But he extricated himself, and resolved, upon his arrival in London, not to see a play again, "to which," says Burnet, "he constantly adhered."[1]

Still, Matthew Hale partook of the temperament of young men, loving fine clothes, and delighting in company. At last, notwithstanding the former gravity of his deportment, he determined to eschew the scholar and the divine and become a soldier. So that, when his tutor, Sedgwick, became chaplain to Lord Vere in the Low countries, Hale meditated a change no less than that of serving in the army of the Prince of Orange.[2] At this juncture, the lucky lawsuit brought him into contact with Counsellor Glanvile, to whom he had been recommended. Hale most likely told him his story. He certainly informed his advocate of his military propensities, so that their conversation became quite unembarrassed. Glanvile thought he saw the future great lawyer in his erratic client, and Hale was sufficiently free from evil habits to adopt with readiness the advice of a

"Guide, philosopher, and friend."

So Serjeant Glanvile has the honour of reclaiming Sir

[1] "Life of Hale," pp. 5, 6. [2] *Id.* p. 7.

Matthew Hale from idleness,[1] and of laying the foundation of those gigantic labours which placed him at the head of his profession, as Lord Chief Justice, and earned for him the title of an elegant and learned author.

Sir John was far less prosperous than many of his contemporaries. Whilst others were flourishing in the rebel Parliament, he was disabled from sitting in it for his delinquency, and returned home. Here, however, he was not permitted to rest, for, being under suspicion, he was seized and imprisoned, and lay in confinement for some years, two of which he spent in the Tower, when he made a composition for his liberty, and was released in 1648.[2] Whitelocke relates his honourable share in this deliverance. "Serjeant Glanville," he says, "made his composition, and was released from imprisonment, in which I did him some service.[3]

The following passages relate to these troubles:—

"7 Aug. 1648. In the Lords.

"Whereas Sir John Glanvile, of Broad Hinton, Knight, Serjeant-at-Law, hath been referred, by order of the Commons, to the Committee for advance of money, &c., to compound for his delinquency, and five and twentieth part, he having left his habitation, and gone and resided in Oxford, the enemy's garrison; which Committee proceeded to a fine with him for £2,320, whereof £1,350 is satisfied by the rectory and

[1] "Life of Hale," p. 8.
[2] Prince's "Worthies," p. 427.
[3] "Memorials," vol. ii. p. 323.

impropriate of Lambton, C°. Devon; so that only £971 remains to be paid: The Lords and Commons approve the said composition, and ordain, that, for his five-and-twentieth part, he pay only the fifth part of the yearly revenue of his lands. And he is hereby discharged of his imprisonment, and of his bail. And His Majesty's Solicitor-General is to prepare a pardon for him, with restoration to him, his heirs and assigns, &c. Provided that if his lands during the three years preceding 1640 shall prove to have been of greater value than set down in this ordinance, then he shall be liable to such farther fine as the House shall appoint."[1] However, we soon hear more about Broad Hinton. "Sir John Glanville's estate at Broad Hinton, being sequestered, and orders from above to sell the stock, and let the estate, nothing done therein."[2] He was, long after this, a *suspected person*.[3]

The Restoration brightened the countenances of many who had survived the empire of Cromwell. Glanvile, amongst others, was immediately made one of the King's Serjeants,[4] and but for death, according to Prince, would undoubtedly have risen higher.[5]

He died on the 2nd of October, 1666, and was buried in the Church of Broad Hinton, Wiltshire, in which place he had purchased a manor.[6]

[1] "Hist. of Marlborough," by Waylen, p. 239. [2] *Id.* p. 241.
[3] *Id.* p. 283.
[4] In the first instance, alone, Dugd. Chr. S., p. 115; Wynne, p. 74.
[5] "Worthies," p. 428. [6] *Ibid.*

In 1673 his widow, Winifred, erected a monument bearing this inscription:—

"Memoriæ Sacrum Johannis Glanvillii Militis, Servientis ad Legem Carolo Primo & Carolo Secundo, filii Johannis Glanvilii de Tavistoke in Com. Devon. Tempore Reginæ Elizab. unius Justiciariorum de Communi Banco Natu Secundo; Domus Communium in Parliamento nuper Prolocutoris; hujus manerii Glanvilliorum, primi emptoris proprietarii. Obiit 2^do^. Octobris Anno Dom. 1661."

"Hoc monumentum propriis Sumptibus Posuit Winifreda Glanvil ipsius Johannis dum vixit Uxor Amantissima; nunc Vidua Mæstissima 29 die Septemb. A.D. 1673."[1]

Sir John had four sons. William, who lived at Broad Hinton, and acted as a Justice of the Peace; John, a barrister, who married a daughter of Sir Edmund Fortescue, of Fallopit, Devon, and who ultimately retired to Broad Hinton; Francis, who was killed when young, at Bridgwater, fighting for the king; Julius, of whom Prince said nothing was known.[2] . . . . . But the additional note to Prince relates, that Julius alone of the sons had issue, that is, John and Julius, and the second son of this last Julius became another Sir John Glanville.[3]

And moreover, the Glanvilles of Catchfrench, Corn-

[1] Prince, p. 429. [2] *Ibid.* [3] *Ibid.*

wall, where the family had resided for half a century when Lysons wrote, were descended from this Julius, "a younger son of Serjeant Glanville, and a descendant of the ancient family of Glanville of Halwell, in Whitchurch, Devon."[1] Mr. Glanville, probably the grandson of Sir John Glanvile, was a distinguished scholar at Marlborough School. He afterwards went to Trinity College, Cambridge, and became a barrister of Lincoln's Inn. He translated Fontenelle's "Plurality of Worlds," and published other works collected in Nicholls's "Collectanea." He died in 1735.[2]

We have already related one ennobling trait of this Serjeant's character, in rescuing the great Sir Matthew Hale from a career of vice. Another well-known anecdote of his generosity is thus handed down by Prince:— "The Judge Glanvile's eldest son was a profligate young man, and the Judge, seeing no hope of amendment, settled his estate on his second son, whose memoir we are writing. No sooner, however, was his parent dead, than the prodigal realized to his deep sorrow the loss he had sustained, in losing his inheritance. Strange to say, he entirely altered his behaviour, and, by degrees, became deserving of the substance he had lost. At length his brother, Sir John, invited him to a feast with many of his friends. Several dishes were served up, but one was covered, and that, by order of Sir John, was placed before Francis, the invited guest.

[1] Lysons's "Magn. Brit." vol. iii. CIV. His arms—azure 3 saltiers, or.—*Ibid.*

[2] "Hist. of Marlborough," by Waylen, p. 473.

Sir John desired him to uncover it, which, being done, the dish was found full of writings, whereupon Sir John informed the company, that he was now to do what his father would have done had he lived to see the happy change in his brother. He therefore restored the whole estate. The brother was subsequently knighted.[1]

Amongst other Works which he may have published, we find his "Law Reports" noticed in a book on "Legal Bibliography." These were some of the first cases published on the subject of "Controverted Elections." The time was during the 21st and 22nd years of James the First. They were, however, unknown to the world till 1775, when John Topham, Esq., of Lincoln's Inn, edited them.[2] Foss writes that they are still in considerable estimation.[3]

[1] Burnet's "Life of Hale," p. 8; Prince, p. 428. Baron Hotham having heard upon good authority that the Lady Eleanor Hotham intended to leave all her property to him, before the will was opened, caused the whole of the expected gift to be made over to her daughter, Ann. Reg. 1798, 58*.

[2] A curious preface, or rather "Historical Account of the antient Rights of Determining Cases upon Controverted Elections" is prefixed.—Bridgman's Legal Bibliography, p. 138.

[3] "Judges," vol. v. p. 496.

BULSTRODE WHITELOCKE.

[Voted by the Parliament to be a Serjeant-at-Law, 1648; and in like manner, in the same year, King's Serjeant.]

BULSTRODE WHITELOCKE[1] was several times a Lord Commissioner of the Great Seal, and, for a short space, Lord Keeper. He might, consequently, be claimed exclusively for the judicial Bench, and both Lord Campbell and Mr. Foss have given histories of him in that capacity. At the same time, he had been voted a King's Serjeant by the Parliament; he was the leader of the Oxford Circuit, and derived his celebrity from eminent merits, entirely independent of a precarious judicial seat which he held during a very disturbed period, and which orthodox chroniclers, Sir William Dugdale, for instance, have declined to admit into their records.[2] . . . . . We, therefore, offer no apology for including him in our rôle of Serjeants. On the contrary, as faithful biographers of distinguished brothers of the coif, we must not venture to omit one of the greatest men of a day which, in its

[1] This spelling is, doubtless, the right one, although we give Whitlock and Whitelock.

[2] Sir William makes a blank. "*Durante Perduellione.*"

urgency, summoned forth genius from obscurity, brightened the talent already ripe for promotion, and rewarded a large portion of those who added prudence to consistency.

The great lawyer was honourably associated from a very early age. In his well-known "Memorials," he tells how early he was acquainted with the future Earl of Clarendon, and how regarded by him. About the year 1636, Edward Hide writes him a letter, directed to "Fawley Court." "Wherein he drolls," and says: "Our best news is, that we have good wine abundantly come over; and the worst that the plague is in town, and no Judge dies, the old observed Baron, out of mere frowardness, resolving to live." And again, in 1637:

"My dear,—I am glad you prosper so happily in issue male.[1] God send the good woman well again, which my wife prays for, as an encouragement for her journey, which she shall shortly be ready for; you may depend on a doe on Monday, God willing, although this weather forbids you to look for a fat one. My pen is deep in a Star Chamber Bill, and therefore I have only the leisure and the manners to tell you, I am very proud that you are a friend to

"Your most affectionate servant,

"EDWARD HIDE."[2]

[1] This was Sir William Whitelock. Whitelocke's "Memorials," Ed. 1853, vol. i. p. 27; "Memoirs," p. 126.

[2] *Id.* vol. i. p. 26. It may be remarked, that we are making use of the

Another letter, promising to go to Fawley to see Whitelocke, followed shortly afterwards. Clarendon never lost sight of his early friends.[1] He cherished the recollections of them, he helped them in trouble, and was himself assisted for his good feeling in time of need. He mentions Whitelocke as one of eminent parts and great learning out of his profession. "And though the two last[2] did bow their knees to Baal," it was with less rancour and malice than others.[3]

Hyde went to Fawley Court in this year of 1637 with his "little wench," as he denominated the "future grandmother of two English queens."[4]

But we must return for a moment to the famous

edition of 1732, in which the numerals referred to in the "Life" are in the margin.

We must explain to the reader why we have used this book of "Memorials" to such an extent in this Memoir.

Tindal, the translator and annotator of Rapin, says in a note:—"It does not appear that Rapin ever saw Whitelocke's 'Memorials,' of which, doubtless, he would have made great use, since they contain many things that never would have come to light; at least, not without some preparation and adjustment. For, as the Author never intended his work for the publick, nor meant otherwise by it than as a book for his memory and private use, he had not any temptation to prevaricate, nor can be well suspected of a design to represent things otherwise than faithfully to himself. All is naked there, and the party more likely to suffer by the truth, than the truth to have any violence in favour of a party."

Tindal then gives the title of the book, and only with these words, which are our complete apology:—

"The particulars of his diary go very far towards a perfect history of these times."—Tindal's "Rapin," vol. ii. p. 349, n. 2.

[1] Whitelocke's "Memoirs," p. 27.

[2] His friends Maynard and Whitlock.

[3] "Hist. of the Rebellion," pt. I. p. 62.

[4] "Memoirs of Whitelocke," p. 127.

book of "Memorials," to which we have just alluded in a note.

A writer of the present day, Andrew Bisset, has discovered in the State Paper Office a considerable number of manuscripts relating to the "Interregnum." The original minutes of all the proceedings of the Council of State will be found there in MS. volumes as long as the Government, called the Commonwealth, lasted. Of these documents Mr. Bisset has made ample use, and it is proper that we should give his opinion and authority as to Whitelocke's "Memorials," when placed in comparison with these papers. "Here," he says, "as frequently happens, the statements of Whitelocke do not coincide with those of the Order Book of the Council of State in military matters, so there can be no doubt that the Order Book is the most trustworthy authority. Whitelocke has misled many modern writers by his statements as to the amount of the forces sent to Ireland. It would be idle to reconcile Whitelocke with the Order Book, inasmuch as a loose and inaccurate statement cannot be reconciled with an exact and accurate one. While Whitelocke has made the whole number of regiments sent to Ireland very much less than it was, he has in some instances made a regiment more numerous than the Order Book. I have shown from the Order Book that Colonel Tottril's regiment consisted of 1,000 men, from the fact of there being orders for 400 pikes and 600 muskets.

"Under date of April 30, 1649, Whitelocke says:—'Letters from Ireland, that Colonel Tottril's regiment of 1,250 was not landed, but beaten back by tempest to Anglesey. That Londonderry could not hold out the siege: that Colonel Monk stood off and did nothing, being, as he said, not in a capacity.'[1] Now, on the 11th of May, there is an order of the Council of State, That a letter be written to Colonel Monk, to let him understand this Council is very sensible of his services to the Commonwealth, and of his integrity in the carrying of it on in those parts."[2]

This accomplished Serjeant was the only son of Sir James Whitelocke, sometime Chief Justice of Chester,[3] and afterwards a Judge of the King's Bench.[4] Sir James was the author of a curious pamphlet on the "Antiquity, Use, and Ceremony of Lawful Combats in England."[5] His son brings the Judge in close contact with the plague of 1625. It had been very bad, 5,000 having perished in London in one week. At length, when it diminished one-half of that number, it fell to the turn of Mr. Justice Whitelocke to go to Westminster Hall and adjourn the Michaelmas Term to Reading. So he went from his house in Bucking-

[1] "Memorials," p. 399.

[2] "History of England, from the Death of Charles I.," by Andrew Bisset; vol. i. p. 134; citing "Order Book of the Council of State," 11th Aug. 1649. MS. State Paper Office.

[3] And Member for Woodstock, 1614, 12 Jac. I., and 1620, 18 Jac. I.—Willis, vol. iii. pp. 172, 181.

[4] Rose's "Dictionary" is wrong as to his seats on the Bench.—*In loco.*

[5] Printed among Hearne's "Curious Discourses."

hamshire to Horton, near Colebrooke, and the next morning early to Hyde Park Corner. There "he and his retinue dined on the ground, with such meat and drink as they brought in the coach with them, and afterwards he drove fast through the streets, which were empty of people, and overgrown with grass, to Westminster Hall."

The officers were ready, and the Judge and his Company went straight to the King's Bench, adjourned the Court, returned to his coach, and drove away presently out of town.[1] He was a bold, stout lawyer, and a constitutional Judge.[2]

Judge Whitelocke, in his *Liber Famelicus*, gave an account of his interview with Lord Coke. It is graphically drawn. He had a "near view" upon one occasion, of this "celebrated Magistrate." Sir James "rode over on a Sunday morning from Fawley Court, his seat in Buckinghamshire, to the sermon at Windsor, and there, in St. George's Chapel, heard preach 'dear Field,' the author of the book on 'The Church' and 'The Field,' according to Fuller's pun: 'Which the Lord had blessed.' Nothing is recorded by Whitelocke about Field's sermon, but we are told that in the chapel he found himself in distinguished company. In the stalls above him sat Secretary Winwood, and

[1] Whitelocke's "Memorials," 1853, vol. i. p. 2, and see "Memoirs," p. 24; Burton's "Diary," vol. iv. p. 335, n. The terror was so great at Fawley Court, that the Judge kept his doors shut, and, as it was the time of harvest, a tub of water was placed out of doors, where the money due to the labourers was to be dropped, and taken out by them.—*Memoirs*, p. 24.

[2] See his Life, in Foss, vol. vi. p. 375. And his character for abilities and learning in his son's "Memorials," vol. i. p. 18.

Coke, then Lord Chief Justice. Sermon over, each of these magnates beckoned to Whitelocke to come to him. Taking the Secretary first, Whitelocke got an invitation to dinner, which he declined, having friends at home. Passing on to the Chief Justice, he was greeted with, 'Come, Mr. Whitelocke, I will make bold with you, one of my own coat; I pray thee let me have thy company out of the church, for I am a stranger here.' 'So,' says Whitelocke, 'I led him out by the arm,' and went with him to his coach in the upper court. Would he had recorded their conversation as they passed along! Whitelocke, proud of supporting the feeble footsteps of the great luminary, and taking to himself some share in the reverential greetings which they encountered on their way! Whitelocke commemorates but one item of their gossip. 'I asked him,' he says, 'why he stayed not at the Court to dinner.' He told me that 'whilst he stood by the King at dinner, he would ever be asking of him questions of that nature, that he had as lief be out of the room, and that made him be as far off as he might be ever at such times.' 'I guess,' adds Whitelocke, 'it was concerning matters of his prerogative, which the King would take ill if he were not answered in them as he would have it.'"[1]

In the book itself, the invitation to dinner is given in the words of that period: "Mr. Secretary invited me to dine with him. I told him I woulde not. He answered me againe: 'I [aye] that is bycaus my Lord

[1] Introduction to *Liber Famelicus*, p. xv.

Cheef Justice hath called yow, and yow dard not deny him.' 'Sir,' sayd I, 'Yow must be bothe denyed now, for I have divers of my frendes at home withe me.'"[1]

However, he adds, "Upon Tuesday, 5 September, I dyned with the Secretary at his lodging in Windsor Castle, and presently after dynner went withe him to Stoke[2] to my Lord Chief Justice and his ladye, whear he stayed two howers, and returned back againe to the Court. My Lord thanked him for his kindnesse unto me. Mr. Secretarie told him he wold be willing to do me any kindnesse, and that I was of his old acquayntance in Oxon."[3]

In a house in Fleet Street, belonging to Sir George Croke, his mother's uncle, on the 6th of August, 1605, Bulstrode Whitelocke first saw the light.[4] He was christened at St. Dunstan's.[5] His paternal uncle, Captain Whitelocke, named the child, and called him "Bullstrode," upon which the minister started at the sound, and asked if he could not have another name. But the Captain said it should be Elizabeth or Bulstrode, one or other of the mother's names, and so the matter ended.[6] His mother was Elizabeth Bulstrode,

[1] *Liber Famelicus*, p. 48.

[2] Stoke Pogeys, Lord Coke's residence.

[3] *Liber Famelicus*, p. 48.

[4] See Campbell's "Chancellors" and Foss's "Judges." *Liber Famelicus*, p. 15; citing the "Register."—*Coll. Topogr. et Geneal.* vol. v. p. 369.

[5] 19th August, 1605.

[6] "Memoirs of Bulstrode Whitelocke," by R. H. Whitelocke, Professor Royal of Wirtemberg, London, 1860, p. 2.

The author of this life thinks it right to say, that he did not meet with this valuable book until he had completed his own "Memoirs of Whitelocke."

There is also a "Life" by Reeves prefixed to the "Swedish Embassy."

of Bulstrode, or Hedgeley, Bucks.[1] She put her son to nurse for a time, but watched over him, and, being dissatisfied with the nurture, brought him back to Fleet Street, where she tended him with assiduous care.[2] Being at length sent to school, he met with the usual treatment of the barbarians of those days, and, in addition, with the kick of a horse in a stable, which cut in sunder his upper lip.[3] His father, who had been educated at Merchant Taylor's, subsequently sent his son to the same school.[4]

Upon entering his thirteenth year he was in favour with his school-fellows, and, there being a serious dispute between St. Paul's School and the Merchant Taylors', he was selected to make an oration in Latin, with a view to pacification, and was dismissed from St. Paul's with his deputation with "Plaudite."

"The event was looked upon as ominous, nor was it forgotten in after life."[5]

He was now initiated in accomplishments. In music, writing, dancing, fencing, and short-hand.[6] After spending some time at Fawley Court he was entered at the Middle Temple, where there was a reading or lecture, and his father admitted him to it at the age of fourteen.[7] From thence he went to St. John's, Oxford, as a gentleman commoner, where his father

[1] "Memoirs of Whitelocke," p. 2.—Noble's "Memoirs of the Cromwell Family." [2] "Memoirs," pp. 3, 4. [3] *Id.* p. 6.
[4] Wood's "Athenæ," by Bliss, vol. iii. p. 1,042.
[5] "Memoirs," p. 8. [6] *Id.* p. 9.
[7] 10th August, 1619; *Liber Famelicus*, p. 76.

had previously been a scholar and Fellow. This was at Michaelmas, 1620.[1] There he was recommended to the care of Dr. Laud, the contemporary and intimate friend of his father, and the President of the College. The Doctor shewed him "several fatherly kindnesses,"[2] which he remembered with much tenderness, although he could not save his old preceptor, and he refused to be concerned against him.

It is worthy of remark also, that Juxon, the King's attendant on the scaffold, and afterwards the Primate and Lord Treasurer, was a helper of Whitelocke in vacation. Juxon had been at Merchant Taylors', and was a commoner of St. John's, and at this time was parson of Somerton, Oxon.[3]

Those who might imagine that by a sudden departure from Oxford the young lawyer had failed to obtain his degree, would be mistaken. For, as Foss rightly says, he went at once to the Middle Temple, where he was entered as a student,[4] and placed in chambers, according to Campbell.[5] And, he had his learned parent for his instructor, and, whilst he was made well acquainted[6] with the common law, he was taught by the same hand the lessons of constitutional freedom. Equally unfounded would any notion be, that Dr. Laud's promotion to Dean of St. David's in

[1] "Memoirs," p. 6.
[2] Wood's "Athenæ," by Bliss, vol. iii. p. 1,042.
[3] "Memoirs," p. 11.
[4] "Judges," vol. vi.
[5] Campbell's "Chancellors," vol. iii.
[6] Campbell, as above.

any way influenced him. For he was actually preparing for his degree in his seventeenth year. Young Whitelocke was very fond of hunting, to which sport he had been introduced by Juxon, and "on a day" he sprained his leg, once and again soon afterwards. Being exhausted, he lay down in a meadow near Islip, and slept for two hours. He was then benumbed, and unable to stand, but, happily, having a hunting-horn, he brought his comrades to his assistance, who conveyed him by the help of a horse, and afterwards of a cart, to Oxford. Medical care proving of no permanent value, his mother removed him to Fawley Court, and he there remained a cripple, till Dr. Mathias, a German, entirely restored his limb by a process peculiarly his own.[1]

It is sometimes with surprise that we find the sons of patrician fathers turning either to the revolutionary spirit of the day, or to an advanced liberalism quite in hostility to their education. But in the case of Bulstrode we find a remarkable event, which his father must have related to him, and with which he must have been familiar. Sir James, when a barrister was prosecuted in the Star Chamber (in 1613)[2] for giving a private opinion as a barrister against the prerogative of the Crown. Bacon was against him, and admitted

[1] "Memoirs," pp. 11—13. The curious remedies which enabled the patient first to walk with crutches, and then with a staff, and soon to dispense with both, will be found at p. 13.

[2] "State Trials," vol. ii. p. 765.

the general right of counsel, but made an exception as to high commissions and cases of State, a suggestion so weak and vague, that, upon his subscribed submission, the future judge was pardoned.[1] Lord Campbell notices this,[2] but he goes on thus: "And when on the bench, he had differed from all his brethren in pronouncing against the power of the king and council to commit to prison, without specifying in the warrant the cause of the commitment."[3] Now, we have been unable to discover the proof of this important decision. Rushworth, in his "Collections," mentions a speech of Sir Robert Philips, in which he speaks of a fatal judgment in a case argued at the Bar, and pronounced by one alone.[4] But this "one" was Sir Nicholas Hyde, Chief Justice, whose business it was to give the judgment of the Court, when unanimous. And upon the motion to bail the several gentlemen upon their Habeas Corpus in the case, mentioned by Campbell, the Chief, "by the consent and direction of the Judges, remanded the prisoners. And as to the point of law, they all agreed that the detainer was, *by the special command of the King.*"[5] And no cause was assigned on the record. But further, the Commons immediately desired that these Judges should attend the Lords, and, amongst the rest, Whitelocke

[1] In May he was committed to the Fleet. His hearing took place in June. —Foss, vol. vi. p. 376.

[2] "Chancellors," vol. iii. p. 19.

[3] *Ibid.*

[4] Pt. 1, p. 504.

[5] *Ibid.* p. 461.

delivers his opinion in favour of the judgment of the Court. "It is true, My Lords," he said, "in Michaelmas Term last, four gentlemen petitioned for a Habeas Corpus, which they obtained, and counsel was assigned unto them; thereturn was, 'Per speciale Mandatum Domini Regis,' which likewise was made known to us under the hands of eighteen Privy Councellors. Now, My Lords, if we had delivered them presently upon this, it must have been because the King did not shew cause, wherein he should have judged the King had done wrong, and this is beyond our knowledge."[1] Moreover, the judgment is set out at length in the "State Trials," where the Chief Justice begins thus, speaking to the prisoners: "I am sure you expect the resolution *of the whole Court*, as accordingly yesterday we told you you should have."[2] Lastly, no mean authority on the subject is the Judge's own son. He relates, that Hide, Chief Justice, delivered the opinion of the Court, and he then confirms what we have just said, that "the Court is not to examine the truth of the return." And he refers to Rushworth.[3]

It is not improbable that the treatment of his father, and his own observation of the Court influence, to which Sir James was compelled to yield, had a main

[1] Rushworth, pt. 1, p. 510. [2] Vol. iii. p. 51.

[3] "Memorials," p. 8, margin. But surely the Chancellor must have meant Selden's Case, who, about the year 1629, was refused bail on his Habeas Corpus. George Croke dissented, and Whitelocke insists that his father did also disagree. So that Croke and Whitelocke were discharged from recompensing the prisoner of that day out of their estates.—*Memorials*, p. 39.

tendency in persuading him to adopt the popular politics of the period. He could not but see the growing dislike to arbitrary oppression, which ripened at length into hatred, even to royalty.[1]

Seven years was the term of probation in those days before the student could be called to the Bar. That period having elapsed in 1626,[2] the benchers of the Middle Temple included Whitelocke in their call. He was remarkable for his near connection with lawyers of eminence. Not to mention his father again, his mother's uncle was the famous Sir George Croke, who, at the last moment, changed his mind, and gave his opinion against Ship-Money.[3] He could also claim in this manner a relationship with Sir John Croke, Sir George's father. And his mother was sister to Edward Bulstrode, a law reporter of considerable excellence.[4] He was in a good position to choose his circuit, for he had ridden all the circuits of England with his father's sanction and influence with the Judges.[5]

The Oxford was his choice. Here he became the

[1] A curious observation of this nature is recorded by the writer of the "Memoirs." King Charles the First mustered 12,000 soldiers, and what were called "coat money" and "conduct money" were ordered, with a promise of repayment out of the Exchequer. The legality of these and other matters were debated by the Judges and learned men of the times, amongst whom was Sir James; and his son drily observes, "They much improved my knowledge."—*Memorials*, pp. 19, 20.

[2] Campbell says, 1628. He was Master of the Revels in 1628.

[3] "Judge Croke, of whom I speak knowingly."—*Memorials*, p. 25.

[4] Campbell, vol. iii. p. 18.

[5] *Id.* p. 19.

undisputed leader. But we must just refer to the "Memoirs" for an interesting account of these itinerant ridings. In truth, about this time, Whitelocke wanted to travel abroad, not an uncustomed introduction to life in those days. But his father, who did not like the scheme, referred his son dryly to the Abbey of Crowland, and to a tale attributed to Lord Burleigh, who, when *his* son applied to him for leave to travel, asked the young gentleman if he had ever seen Crowland. Young Bulstrode then suggested the circuits, to which his father agreed, and got the consent of his brethren of the bench to allow this mode of attendance.[1] The youth might have been called the "General Marshal." However, we are informed that he had another narrow escape upon one of these circuits, for he explored the forest of Dean, and nearly lost his life in crossing the Wye with his groom and horses in a flat-bottomed boat, ferried across by a woman who used a singular sort of scoop[2] to propel it.[3]

Most men of Whitelocke's day coveted a seat in Parliament, and his wishes in this respect were gratified at a comparatively early age.

In 1625 he was returned for Stafford,[4] and for Brigge, in Yorkshire.[5] He elected to serve for Stafford. His vote was seldom with the Court party;

[1] "Memoirs," p. 17.

[2] Probably like the coracle, only much larger.

[3] "Memoirs," p. 18, 19.

[4] Willis's "Not. Parl.," vol. iii. p. 214.

[5] Boroughbridge. But this does not appear in *Willis*.

but he maintained an appearance of absolute independence.[1] He followed the advice given him by his friends as to his demeanour in Parliament. He was "nót to crow nor brag."[2] He, however, joined the remonstrance against tonnage and poundage, and, upon the dissolution of Parliament, retired into private life, and pursued his profession, being then in his twenty-second year.[3]

About this time also he is said to have been engaged in an intrigue, which he carried out so successfully as to place a young lady in the hands of her lover, though against her uncle's wishes.[4] But he himself was well nigh caught. There was a Miss Willcox, the daughter of a London citizen, who was able to give his daughter a great portion; and the grave Judge, his father, persuaded by his friends and relatives, actually propounded the business in a letter, which we must subjoin.

"Mr. Willcox,—

"I am very sorry to hear of your sickness, and I pray God send you health. I ask leave to commend unto you the suit that my son maketh to your daughter. I should do him wrong if I did not give that testimony of his behaviour, which I know to be true; and that is, that he is a sober and honest young man, dutiful to his parents, a good proficient at his

[1] "Memoirs," p. 29. [2] *Ibid.* [3] *Id.* p. 35.
[4] See the full account in the "Memoirs," p. 40.

book, and provident in his expense. I foresee his likelihood to run on in his expense. I foresee his likelihood to run on in his profession with the forwardest. I have £1,000 per annum already for him in possession and reversion, to help him in his course; and I hope in God, if I live, to increase it. I have no more children but himself and two daughters, the one of which I have married to a gentleman of £3,000 per annum, and the other is not yet ready for a match. I will assure all my land upon their issue, and yield to such conditions for your daughter's advancement as shall be thought reasonable, nor do I intend to be a penny the better for his portion, but to bestow it all for his good. For myself, you shall find me assured to do you and yours any good, as if I were your own brother, and to be a stay and friend to you all. Thus I thought fit to make offer of my good intention to you, and so I pray God, to whose protection I leave you, to bless you with health and strength.

"I rest," &c.

Mr. Richard Oakley, a most loving, faithful servant and friend of the family, endeavoured to compass this match, but the two fathers could not agree upon the marriage conditions and settlements, so the treaty was broken off.

Mr. Grymston (or Grimstone), a young gentleman of Lincoln's Inn, the son and heir of Sir Harbottle Grimston, of Essex, with a good estate, had better

success in his treaty of a marriage with Judge Croke's daughter. As Whitelocke was the lady's kinsman, and the lover's friend, he was made the instrument of bringing about the match, which turned out a most happy one. On taking the bride home, the bridegroom's father and mother, many friends, and Whitelocke himself, accompanied the young husband; and, for a frolic, Bulstrode, whom his former disaster at charioteering had not dismayed, turned coachman, and drove the bride's coach. Upon the way they stopped at a mansion, where a gentleman of quality and his lady came to the door, bade the newly married couple welcome, and treated them with wine and sweetmeats. The coachman sat mannerly, with his hat in his hand, upon the box, all powdered over with dust; but the lady, looking earnestly and archly at him, advanced to him with a cup of wine in her hand.

"Sir, I do not use to drink to coachmen, but you seem to be an extraordinary one, and therefore I present my service to you."

What could a coachman do when thus greeted?

He descended from his post, and replied gaily:—

"Madam, I believe you do not use to give leave to coachmen to salute you, but let one whom you judge extraordinary have that extraordinary favour from you."

With this he saluted the lady, and re-ascended his box.[1]

[1] "Memoirs," pp. 41, 42.

Not only was this treaty with Mr. Willcox dissolved, but another also, and on the same grounds.

"Mammon (the Jewish Cupid), inspired the text of Marriage Settlements." This was for Sir John Garret's daughter, of Hertfordshire, a great beauty.[1]

There were, in former days, revels, sports, and pastimes in all the Inns of Court. The Middle Temple appears to have been the most celebrated and imposing for its ceremonies. There were solemn revels and post revels. The solemn revels were upon the appointment of a reader, and the others were grand "Christmassings." The first of the readers elect, who were the two next ancients in Commons present in the Hall, and provided by the butler with a white rod and staff, was called "Master of the Revels." It was his duty to lead the dances, and conduct all the society under the rank of Benchers round the Hall. The other was called the "Master of the Ceremonies." He stood at the cupboard, and, with a loud voice, thrice summoned the Master of the Revels to come and perform his duty. He noticed who were absent, and informed against such as wore hats, boots, or long hair; the latter of which was considered "as a high enormity." "When the last measure was dancing," the reader at the cupboard called out to one of the gentlemen of the Bar, when walking or dancing with the rest, to give the "Judges a song." Upon which

[1] "Memoirs," p. 62.

the Barrister (who was fineable if he did not comply), began the first line of any psalm he thought fit, and then all the rest of the company followed, and sang with him. At the end, the Judges had wafers given to them, and a liquor in a wooden bowl, called "*ipocras.*"[1]

With regard to the "Christmassings," at seven in the morning the "Lord of Misrule" was abroad. His power till breakfast was to go to any Chambers if he wanted any officer or attendant, and compel the occupier to attend him, after church, to breakfast, with brawn, mustard, and malmsey. After that his power was in suspense until his personal presence at night, when his power was most potent.

The account of these Christmas feasts will be found in the old books. They are now forgotten; but one strange custom may be mentioned. The Master of the Game was present, apparelled in green velvet, and the Ranger of the Forest in a green suit of satin. After certain ceremonies a huntsman comes into the Hall with a fox, and a pursenet with a cat, both bound at the end of a staff, and with them nine or ten couple of hounds, with the blowing of hunting-horns. And then the fox and cat are set upon by the hounds, and killed beneath the fires. Then a song was sung by the most ancient Master of the Revels, and, after the observance of several other customs, "the Lord of

[1] Dugdale's "Origines."—Herbert's *Antiquities of the Inns of Court.*

Misrule addressed himself to the banquet, which ended with some minstrelsy, mirth, and dancing."[1]

Of these post-revels the young barrister (he had not been called more than two years) was the master.[2] Great honour was attached to the solemnity, for Whitelocke tells us of the death of a young gentleman who was of good fortune, and an "officer of quality" in the ceremony, upon which the Parliament[3] ordered him a sumptuous funeral at the cost of the Society; but, at the same time, after acquainting the father with the death of his son, the Inn requested repayment from him of the expense. The father refused, upon which a Bill was preferred in the Court of Requests.[4] In this document all the customs of the Inns relating to the solemnity were set forth, together with the feasts of Christmas, and the choice of Christmas officers. Several eminent men set their hands to the Bill, and, amongst others, Noy, the Attorney-General. The end was, that the money was paid, and the Bench distributed it amongst the poor prisoners. Noy, when Whitelocke came to him about the Bill, advised with him about the King's Patent concerning an association between England and Scotland for fishing. Noy loved a little drollery, and gave Whitelocke eleven groats out of his little purse. "Here," said Noy, "take these single pence; and I give you more than an attorney's fee, because you will

[1] Dugdale's "Origines," p. 156.
[2] "Memorials," vol. i. p. 11.
[3] That is, of the Inn.
[4] Our present County Court.

be a better man than an Attorney-General; and this you will find to be true."[1] This was in 1629.

Whitelocke was in a few years after this again in honour at the Inns of Court. It was determined to give a royal mask at the Banqueting House at Whitehall.[2] And each Inn of Court sent two members as a committee.

"For the Middle Temple," he says, "Mr. Edward Hide and myself."[3]

The history of this fete is minutely related in the "Memorials." We should not have further noticed it, excepting for the fact, that patents and monopolies were just at that time upon the rise. Noy, the Attorney-General, did not approve of the King's leaning towards them, and he cleverly encouraged what was called an "Anti-Mask," in order to turn them into ridicule, without appearing in open hostility. He had, however, a great hand in the scene.

First, as to the Patent. There "rode a fellow upon a little horse, with a great bit in his mouth, and upon the man's head was a bit with headstall and reins fastened, and signified a *projector*, who begged a patent, that none in the kingdom might ride their horses, but with such bits as they should buy of him. Then came another fellow with a bunch of carrots upon his head, and a capon upon his fist, describing a projector, who

[1] "Memorials," vol. i. p. 11. See also the "Memoirs," p. 56—63.

[2] The object was to confute Prynne's "Histrio Mustix" against interludes. —*Memorials*, vol. i. p. 19.

[3] *Id.* p. 19.

begged a patent of monopoly, as the first inventor of the art to feed capons fat with carrots, and that none but himself might make use of that invention, and have the privilege for fourteen years."[1]

All the varied amusements are graphically detailed. They were not over till almost morning.[2]

But to return to the profession of the lawyer.

He is said to have realised in the first year of his circuit £152 16s.[3] . . . .

In 1630 he married the daughter of Alderman Bennet's widow with a portion of £3,000. She was sister to Sir Humphry May, and sister-in-law of Alderman Sir Thomas Bennet.[4] However, the nuptials were nearly postponed through the bride's appalling illness, which returned at night, when the company left them in their chamber, and with such convulsions as to cause expectation of instant death.[5] She grew better, and Whitelocke formed immediately the resolution of reading prayers to his wife and servants, and he religiously maintained the practice.[6]

[1] "Memorials," p. 20.

[2] *Id.* p. 21. "Thus was this earthly pomp and glory, if not vanity, soon passed over and gone, as if it had never been."—*Ibid.* The mask was repeated at the request of the Queen at Merchant Taylor's Hall, at the charge of the Lord Mayor. The Committee directed Sir John Finch, Mr. Gerling, Hyde, and himself, to wait upon the King and Queen to return thanks. All kissed the King's hand, and Sir John Finch made a speech. They were then presented to the Queen, and kissed hands. Both their Majesties made the most gracious replies to the addresses of Sir John.—*Id.* pp. 21, 22. Other curious particulars as to the masque will be found in the "Memoirs," pp. 94—98.

[3] "Memoirs," p. 65.

[4] *Ibid.*

[5] See the full account, *Id.* pp. 66, 67.

[6] *Id.* p. 67.

On Whitsun Eve, 1631, his mother died, and he gave up the summer circuit, but returned to London for the winter.[1] And on the 21st June, 1632, his father followed his mother.[2] He placed a monument to their memory in Fawley Church.[3]

In 1633 his old instructor, Laud, became Archbishop of Canterbury. He heard that Whitelocke was at Fawley, and sent for him. The old prelate was courteous to his ancient pupil, and very handsomely excused himself from going to Fawley, on the ground of a report that Whitelocke was not at home. He supped with the Archbishop, who went on the next morning to Oxford.[4]

He was now made Recorder of Abingdon.[5] But upon one of his return journeys his wife impressed upon him the lonely life she led in the country, for he was absent in Term, as well as at the Assizes and Sessions. So he complied with her wishes, and in Michaelmas Term, 1634, removed to Salisbury Court, in Fleet Street.[6] But his unfortunate wife gained but little health from the change, for she was placed in a private madhouse, and the "desolate man" went to France,[7] where he was attacked by fever,[8] and so dis-

[1] "Memoirs," p. 68. She died at Fawley Court. Her children were Bulstrode and two daughters. 1, Elizabeth, who married Thomas Mostyn, of Mostyn, Flintshire, Esq.; 2, Cecilia, married Edward Dixon. . . . "Burn's Henley," p. 246; citing Langley's "Hundred of Desborough," pp. 189—476. —Fawley *Register*.

[2] "Memoirs," p. 72.

[3] *Id.* p. 91 n.

[4] *Id.* pp. 76—80.

[5] *Id.* p. 80.

[6] *Id.* p. 92.

[7] *Id.* pp. 100, 101.

[8] *Id.* p. 103.

tressed was he concerning his wife, that he wrote to his friend, Edward Hyde, to say that he could hardly hope to see England again.[1] From Bow, where his wife was confined, he now received letters from the doctor, assuring him of her speedy recovery. This he seems not to have credited, and with good reason. There was only one child, and the mother-in-law, who had placed another of her daughters with this doctor, insisted upon seeing Mrs. Whitelocke. According to the "Memoirs," an hour's conversation ensued, but the hapless lady immediately relapsed, and died in the following May. The mother-in-law then gave out that her husband was dead, and was about to petition the King that she might have the custody of her grandchild, with the profits of his father's estate, when he reappeared, having abandoned his plan of entering foreign service, and dissolved the scheme.[2]

The writer of the "Memoirs" insists, and truly, upon the warm friendship which now subsisted between the bereft husband and the future Chancellor, and inserts a letter which is so remarkable that it cannot be passed over.[3]

[1] "Memoirs," p. 105. [2] *Id.* p. 106. [3] *Id.* p. 105.

To my very good friend Mr. Whitelocke, these:—

"My dear Friend,

"I will hope, that all sad relations have ere this arrived with you, and that you are as well as your condition will bear. The best part of the world performs you justice, in professing all your known friendship to your wife, and just respects to her friends. Let this and your own conscience preserve you unconcerned in the censures of her mother and family for your going out of England, and know your reputation is much above the reach of their impotent malice. If you stand fast upon your own virtue, you are fully vindicated from any shadow of blame by that journey, but if you think by any compliance to prevail with people of such compositions, you but expose yourself to the mischiefs of insolency. Whether your return ought to be speedy or only a little hastened, I shall leave to your own wisdom, which understands best how you have settled and disposed of your estate, and whether the air of France be fitter for melancholique than ours. My little friend at Salisbury Court is lusty, and shall live your comfort. If there be any clamours at Court (as your mad mother threatens) I have taken a sure course for intimation, and shall easily prevent any mischiefs they can intend. Among your afflictions suffer not yourself to be so much confounded, as to forget your fair proportion of blessings too, among which your fame with all good men will find a chief

place, and let the share we beare of your griefs ease your too heavy burden. Whilst others perform you real services, I am only busy in my resolutions and vows to be,

"Your most humble and affectionate servant,

"EDWARD. HYDE.

"Middle Temple, this 21st of May."

He arrived safely in London in June, found his son "plump and thriving," and received a warm welcome from his friends.[1]

And now we have fairly launched this considerable person on the world. We shall quickly see the versatility of his powers, the readiness of his intellect, and the extent of his attainments. If in the House, he could speak; if at the Bar, he was craved; if wanted in the field, he could fight; if deeds of blood were required, he could shun them; when his day was over, he could retire and live in peace.

It seems, that he spent his vacations at Oxford. On one occasion, in 1635, he attended the Quarter Sessions there. He was dressed in coloured clothes, had a sword by his side, and the unusual addition for lawyers in those days of a "falling band." Nevertheless, he was elected the Chairman, and he made some bold allusions as to the power of the temporal Courts in spiritual matters which had been questioned. He, moreover, stood up for the forest liberties of the

[1] "Memoirs," p. 109.

country gentlemen. He informs us the spiritual men began to swell higher than ordinary, and complained that anything savouring of the spirituality should be within the cognizance of ignorant laymen. So the bench and the freeholders were pleased with him, and perceived that one might speak as well in a "falling band" as in a "ruff," and treated him afterwards with extraordinary respect and civility.[1] It is supposed that this ventilation of his opinions procured him his seat for Marlow.

In 1637 he determined upon taking a second wife. She was the daughter of the late Lord Willoughby, of Parham. Her mother was daughter to the Earl of Rutland, and he was lineally descended from a sister of King Edward the Fourth.[2] This union revived his Circuit business, for he was retained as Counsel at the Justice in Eyre's seat, held for Whichwood Forest. His wife's mother, a widow, had come to live at Henley.[3]

In November 1640, the Long Parliament began at Westminster, and Whitelocke was returned for Marlow; beaten at first by unfair means, says Lord Campbell; but the election being declared void, he succeeded upon the new writs.[4] It is said, that he got his seat through the expression of his political opinions.[5] He was not long idle in the House. We

[1] "Memorials," vol. i. p. 23.
[2] "Memoirs," pp. 123, 260.
[3] "Memoirs," p. 123.
[4] Campbell's "Chancellors," vol. iii. p. 20.
[5] Foss's "Judges," vol. vi. p. 500.

have already seen with what success he defended his father's memory against the imputation of refusing to bail Selden.[1] About this time some Members insisted that the powers of the militia were solely in the King, but others held that they lay solely in the Parliament. There were, consequently, debates upon the subject, and, amongst the speakers was Mr. Whitelocke, who affirmed that the powers belonged to neither, but that if, in the eye of the law, they could be anywhere, they must rest in the King and Parliament, both consenting together.[2] He maintained this opinion resolutely some time afterwards, when there was a discussion between the Commissioners of the King and the Parliament upon this subject; Sir Edward Hyde appeared to argue for the King's right, and Mr. Whitelocke to shew that the law did not positively affirm where that great power was lodged. Upon this, although both sides expressed their readiness to hear the "worthy gentlemen," they concluded that there would be a great saving of time if they declined the debate. Nevertheless, at their return to their quarters, the Commissioners of "both kingdoms"[3] gave him thanks for encountering Sir Edward Hyde upon this point of right, declaring that the honour of the Parliament was concerned in it, and vindicated by him.[4] He had now decidedly espoused the popular

[1] *Ante.*

[2] He gives us his speech in his "Memorials," vol. i. p. 55. Cobbett's "Parl. Hist." vol. ii. p. 1078; "Memorials," vol. i. p 129.

[3] England and Scotland.

[4] "Memorials," vol. i. p. 129.

cause. His father was dead, and he was in easy circumstances. He was rather vain, and not disinclined to flattery, with shrewdness enough to perceive that more preferment lay in the road to liberalism, than in adhering too rigidly to royalty.

He now appears as Chairman of the Committee appointed to draw up the Articles of High Treason against the Earl of Strafford. They sat almost daily, bound by a solemn engagement of secrecy, in the nature of a voluntary oath.[1] The articles, twenty-eight in number, were soon presented to the Lords. In less than two months, the Earl was on his trial. The King, who must have known of his devotion to his Sovereign, the Queen, the Prince, with "divers" foreign lords and ladies, attended. In a month afterwards, the bill of attainder was passed, and the infatuated monarch signed it, as it were, urged on by strong delusion to his fate.

"Put not your trust in princes, nor in the sons of men; for in them there is no salvation," said the Earl.[2] Whitelocke helped to manage the evidence, but he was plausible and gentle, so that the Earl observed to a private friend, that "Glynne and Maynard used him like advocates, but Palmer and Whitelocke like gentlemen."[3]

[1] "Memorials," vol. i. p. 39. The Committee were Pym, Hampden, Hollis, Lord Digby, Stroud, Sir Walter Earle, Selden, St. John, Maynard, Palmer, Glynne, and Whitelocke.

[2] "Memorials," vol. i. pp. 41—46.

[3] *Id.* p. 43. "And yet left out nothing material to be urged against him."—*Ibid.*

A very remarkable incident concerning Whitelocke occurred at this trial. A Paper of Notes, supposed seriously to affect Lord Strafford, was discovered by Sir Henry Vane's son in his father's cabinet, which he was directed to search for other papers.[1] They were missing at the Committee, and by the Earl's answer, it would appear that he must have seen them. "Now," said Whitelocke, indignantly, "I being in the chair, and having the charge and custody of all the papers, I was suspected more than once of having acted this piece of treachery."[2] Whitelocke never shewed it to any excepting the Committee, but, when wanted, it could not be found. The House was restless. They insisted on a solemn protestation by every member of ignorance on the subject. All obeyed but Lord Digby, with "more earnestness and deeper imprecations than the rest."[3] At the battle of Naseby, the King's cabinet was taken, and there was a copy of these notes under the hand of Lord Digby.[4]

To revert for a moment to the militia. As soon as the ordinance for this force was passed, Lieutenants were named for the several counties, and they appointed their Deputy-Lieutenants. Lord Paget was approved for Bucks, and he named six, of whom Whitelocke was one.[5] In very few days afterwards,

[1] These papers were notes made by Secretary Vane himself at the Council table.

[2] "Memorials," vol. i. p. 43. [3] *Ibid.*

[4] *Ibid.* "I was cleared."—*Id.* p. 44.

[5] "Memorials," vol. i. p. 58, where he sets out his Commission, dated May 11, 1642.

Lord Say, Lieutenant of Oxon, made him a Deputy-Lieutenant.[1] However, another change quickly took place, for the King published his Commission of array, and declared against the militia ordinance, upon which Lord Paget went over to the King, and Whitelocke became Lieutenant under Lord Morton.[2] Yet he had a qualm of conscience respecting this matter, but being solemnly assured by the most powerful and active members, that they had no intention of going to war with the King, he retained his Commissions.[3] Then close upon these transactions, came the famous Commissions of array. This was the first sign of warfare between the monarch and the Parliament, and the terms, "Cavalier" and "Roundhead" arose. These Commissions were to array the Royal forces in every county against the Parliament. They began in Leicestershire, and existed, probably, till the King's cause was quite lost. In Cumberland and Westmoreland, two years after this, the Commissioners sustained a reverse. For they had met to feast, and consult about raising more men, when the country people rose, and took forty of them prisoners.[4] . . . . .

We must now leave for a short space the orator, the lawyer, and the politician, and present him in the character of a fighting man. As soon as the King resolved to arm in earnest, the Parliament thought it high time to provide for their own defence. But

[1] "Memorials," vol. i. p. 58, dated May 28, 1642.

[2] *Id.* vol. i. p. 59, dated June 5, 1642. There were great differences amongst the great lawyers as to the legality of the ordinance.—*Ibid.*

[3] *Ibid.*

[4] *Id.* p. 106.

Whitelocke made one more effort. He pronounced an elegant and able address against civil war. He urged the renewal of proposals for peace. He quoted Cæsar, that so vengeful a broil as internecine strife cannot be begun *sine malis artibus*. He repeated the grand opening of the "Pharsalia:"—

> "Jusque datum sceleri canimus, populumque potentem,
> In sua victrici conversum viscera dextrâ."[1]

He spoke of the "Alea belli."[2]

"Yet, Sir, when I have said this, I am not for a tame resignation of our religion, lives and liberties into the hands of our adversaries, who seek to devour us. Nor do I think it is inconsistent with your great wisdom, to prepare for a just and necessary defence of them."[3] The vote was taken, that an army should be raised for the defence of King and Parliament.[4]

Charles erected his standard at Nottingham. All this passed much within the year,[5] and the struggle commenced. The Parliament lost no time in impeaching obnoxious persons of the highest offence known to our law. Charles was illimitably wrong. But the religion of the Parliament and the Commonwealth was a spiritual carnival of blood.

[1] The book begins:—

> "Bella per Œmathios *plus quam civilia* campos,
> Jusque datum," &c.
> "Cognatasque acies."

[2] "Periculosum plenum opus aleæ."

[3] "Memorials," vol. i. pp. 60, 61. [4] *Id.* p. 61.

[5] 1642. The standard was raised August 22.—Hume's *England*, vol. vi. p. 493.

Whitelocke was a Deputy for Oxon. Wattleton in Oxfordshire was threatened with the Commission of array. The House commanded the Deputy-Lieutenant to arrest the execution of it, and to apprehend the Commissioners. He had some horse and foot placed under his directions, and he buckled on his armour. The King was at Shrewsbury with a considerable army. But the Commissioners took fright, and sought refuge. Nevertheless, they were besieged, says Whitelocke, and fired "at us," but finding that "we went about to storm the house, they presently yielded upon quarter."[1] The Earl of Berkshire and some few others were sent to London, and lay long in prison. The others were "got away." However, after the first shedding of blood near Hull, Sir John Biron, though molested on his advance, came down upon Oxford. Whitelocke was immediately in the field. He met with a member of the House marching towards the army, well armed, with twelve of his servants in scarlet cloaks, well horsed and armed; and as soon as he knew the lieutenant's service, accompanied him.[2] In the mean time, Lord Say, the Lord-Lieutenant, with his dragoons; and Lord St. John, with his foot regiment, had alarmed Biron, so that all entered the city in company with above 3,000 men,

[1] "Memorials," vol. i. p. 62. About this time, when Fiennes was made Lord-Lieutenant of Oxfordshire, he proposed to make Whitelocke Governor of Oxford, and likewise to fortify the city, but some difficulty arose.—Wood's Athen., Bliss, vol. iii. p. 547.

[2] "Memorials," vol. i. p. 63.

"welcomed by the townsmen more than by the scholars."[1] Finding this suspicious feeling on the part of the university men, it was proposed to make Mr. Whitelocke Governor of the city, and fortify it, and not only so, the neighbours offered to place 1,000 men within a day's warning, at his command. But Lord Say, though the facts of his lieutenant being a scholar and a member of the university were in his favour, shrank from the task.[2] More than this, the plate of the colleges was saved by the Lord Lieutenant, an engagement being taken that it should not be used against the Parliament.[3] This nobleman was absolute, and shunned the advice of his party. Consequently, the Royal forces entered Oxfordshire again, and the lawyer finds a regiment of horse at his house at Fawley Court, commanded by no other than Sir John Biron. Sir John was courteous and forbade plunder, but the soldiers made a wreck of the premises, destroyed the books, papers and deeds, lit their pipes with the writings, and used all the farm produce.[4] . . . . . And they either burnt or carried away some of his father's manuscripts, together with the title deeds,[5] possibly the MS. respecting the question of Impositions by King James.[6] "They broke down my park

[1] "Memorials," vol. i. pp. 62, 63.

[2] Which Whitelocke deemed, as it turned out, a great error, though he praises Lord Say for great parts, wisdom, and integrity.—*Id.* p. 63. See p. 64.

[3] More ill consequences. And the Lord Say had no thanks from either party.—*Ibid.*

[4] 100 loads of corn and hay.—*Id.* p. 65.

[5] "Memorials," vol. i. p. 65.

[6] See Introduction to *Liber Famelicus*, p. xix., and *Liber Famelicus*, p. xxiv.

pales, killed most of my deer, though rascal and carrion, and let out all the rest; only a tame young stag they carried away and presented to Prince Rupert, and my hounds, which were extraordinary good." He tells of other wrongs, *alia enormia* of the dreary tale.[1] Nevertheless, he moralises. "This is remembered only to raise a constant hatred of any thing that may in the least tend to the fomenting of such unhappiness and misery."[2]

Another account of this raid upon Whitelocke's property is handed down to us by the journals of the time. "On Monday, the 31st (of October 1642) information was communicated to the Parliament that Banbury had been yielded on Thursday; that the 1,500 men who were placed there by the Lord General had quarter given them to leave the town, but that their arms were taken from them; and that the Cavaliers had plundered the town, and utterly undone the greatest part of the inhabitants, having taken the mercer's shops to their own uses, saying that His Majesty would pay for it hereafter."[3] A later account, November the 5th, says:—"It is certain that Prince Robert [Rupert] hath plundered the Lord Say his house, Master Fynes his house, Master Whitelocke's house, Member of Parliament, and taken away all his cattle, and destroyed his deere, and such as they could not kill they brake down the park pales to let them out."[4]

[1] "Memorials," vol. i. p. 65. [2] *Ibid.*

[3] Beesley's "Hist. of Banbury, p. 328, citing *Perfect Diurnal.*

[4] *Ibid.*

We next find the soldier with Hampden's regiment, which he had joined at Turnham Green, both armies facing each other. But, strange to say, the King drew off his carriages and ordnance, whereas the city wives sent to their husbands and friends of the Parliament many cart-loads of provisions. The soldiers were merry over this, and the more when they learnt the King's retreat.[1]

Here the lawyer departs for a moment from his martial narrative to claim kinsmanship with Lord Fairfax, his very noble and kind friend; he himself would say that his name and mine were all one; his was French, and mine was Saxon; Fairfax in French was Whitlocke, or fair hair."[2]

Such is the natural feeling of kindliness amongst a very large body of our fellow-men, that, not even in the most savage nations, are efforts untried to smoothe differences, before the final catastrophe arrives. Thus, early in 1643, after some small successes on the part of the Parliament, there was a proposal for peace. No one more anxious than Whitelocke, no one more constantly employed, no one with greater confidence. So the debate, for life or death, was to be at Oxford. The Commons, having a safe conduct, were well represented and grandly received. Two went with each lord in his coach, drawn by six horses, with a great retinue on horseback. They were, however, insulted

[1] Whitelocke's "Memorials," vol. i. p. 66.

[2] *Ibid.*

by the rabble, and some of better quality, but took no notice.[1]

The King was walking with the Prince in Christ Church Garden, when the first interview took place. All kissed his hand, according to their rank. Waller, the poet, was the last. There was at that time a plot to betray the Parliament, in which Waller was deeply concerned. This fact accounts for the well-known speech to Waller:—"Though you are the last, yet you are not the worst, nor the least in my favour."[2]

The treaty was on foot from the 4th of March to the 15th of April when the King, over-persuaded, perhaps not unwillingly, insisted that the Parliament should adjourn to some place twenty miles from London, upon which he would consent to disband the armies, and would return to his Parliament. . . . . .

This was fatal. The Parliament were not likely to effect a suicidal disbanding of themselves, and consequently the war, by no means discontinued, raged with renewed vigour. The Parliament ordered their thanks and approval to the Commissioners.[3] Clarendon, however, says that the King wanted ten days more consideration, the original time being twenty, but the Parliament refused, and on the last day but one, sent an order, requiring the Commissioners to quit

[1] "Memorials," vol. i. p. 67, and see *Post* and *Id.* p. 112.

[2] *Id.* pp. 67, 70. Whitelocke, Pierpoint and Selden were together in Selden's study, when Waller propounded such a plot in general terms, but retired abashed by their denunciations of treachery and baseness.

[3] *Id.* p. 69.

Oxford on the day following.[1] In 1644 the lieutenant of Oxford was made practically acquainted with the rule, that soldiers of all fashions will plunder. The Lord General had his forces quartered at Henley, and though Whitelocke was a Parliament man, though the General and officers were his particular friends, yet the soldiery did much mischief to him in his woods and houses.[2]

Laud was now marked for the next great victim. Whitelocke was put upon the Committee to prosecute and manage the evidence. He was particularly summoned, but declined. He would not be a party to the death of the venerable chief, who had been kind to him at college. Miles Corbett was Chairman, and sent expressly for the learned counsel, but he absolutely refused to come. It was not "fit for him to appear in it against one to whom he had been beholden for his education." Corbett complained to the House, who heard what Whitelocke calls his apology, and discharged him, to the regret of the Chairman.[3]

However, but for an accident, we had seen him General Whitelocke. A large Parliament force from London, Oxon, Berks and Bucks were to unite, and Whitelocke was offered the command of this army. But, finding that the London brigade was already under the leadership of a Major-General Brown, he was aware that that officer would not willingly obey

[1] "Life of Clarendon," pt. III. p. 12, and see pt. II. p. 71 of the same life.
[2] "Memorials," vol. i. p. 88. [3] *Id.* p. 75.

any orders, except these of the Lord General. Therefore, he foresaw the disputes which must arise, and declined the post.[1]

Notwithstanding all these bickerings, and a sanguinary commencement of the total disunion between the Monarch and the Parliament, the better opinion was still for peace. We have reached the year 1643. In March of that year, there were serious debates in both Houses concerning a treaty. No one was more zealous than the Member for Marlow. He writes his speech for us. He denounces *civil* war. "Is it not all English?" *Omnia discordiis civilibus fessa.*[2]

During this time, the Royalist lawyers were threatened, and their brother did eminent service, in restraining a Committee of his brethren from ransacking the chambers of the "malignants" and taking away the evidences of title.[3]

Whitelocke was now a member of the assembly of divines at Westminster, but contended unsuccessfully, though joined by Selden, that the Government of the Church was not *jure divino*.[4] But when the "Covenant" came on for debate in the Commons he made a long and wearisome speech against time, till a sufficient number of "independent" members could be got together, and then, with the aid of a small body of Episcopalians, the resolution was thrown out.[5] And

[1] "Memorials," vol. i. p. 88. [2] *Id.* p. 84. [3] *Id.* p. 91.
[4] "Memorials," vol. i. p. 99.—See *Id.* vol. i. p. 111.
[5] Campbell's "Chancellors," vol. iii. p. 24.

now, before the last grand struggle, peace was seriously contemplated upon terms of equality and mutual understanding. This was in 1644. Four members of the Commons, Pierpoint, Hollis, Lord Wenman, and Mr. Whitelocke, were named as a Committee, to join with two of the House of Lords and the Scot's Committee.[1] They had a safe conduct, and left London on the 20th of November. Their first halt was Reading, supposing that the King was at Marlborough, but he had gone to Wallingford. Nevertheless, though late, amongst bad roads, and with bad weather, they went across the country to Nettlebed, "were benighted, and in much danger in that ill journey." Still, they were merry at Nettlebed, in spite of sorry entertainment. They staid another day at Wallingford, where they were received haughtily, and thence left for Oxford, where the King was. Upon a hill, half a mile from the town, they were kept for three or four hours in a wet and cold open field till an officer came to convey them into the city. Oxford was not a place where republicans were likely to be too civilly entreated. So, notwithstanding the pleasing idea that the Commissioners were come to deliver the "rude multitude" from slavery and Popery, they were called "traitors, rogues, and rebels," and pelted with stones and dirt. However, no notice was then taken, and they got to their quarters, where, amongst other great

[1] "Memorials," vol. i. p. 110.—Clarendon's *History of the Rebellion*, pt. vi., p. 318.

men, Sir Edward Hyde came to visit them, and professed his earnest desire and endeavour in favour of the propositions for peace.[1]

An incident now occurred, which gave rise to a scene very unusual as an introduction to negotiations. The Commissioners were at their inn, when there was suddenly a great bustle in the hall. The servants came in and told that some officers of the King's army had quarrelled with them and abused their masters. The quarrel arose because the attendants were not allowed to come to the fire. The Commissioners showed wonderful spirit. Mr. Hollis went presently to one of the King's officers who was there, "a tall, big, black man, and, taking him by the collar, shook him, and took away his sword from him." Then "I did the like to another great mastiff fellow," says the Journalist, "an officer also of the King's army, and took away his sword from him."[2] The truth seems to be, that these officers came into the inner room for the purpose of insulting the Commissioners, for the latter, expecting a fresh influx of the military, had the door of the inn shut, and sent to the governor to acquaint him with the outrage. Upon this a captain was sent, who took away the two disarmed officers, and carried them to prison. Making some excuse, he brought a guard of foot-soldiers to attend at the door of our quarters.[3] The matter was

[1] "Memorials," vol. i. p. 112. [2] *Ibid.* [3] *Ibid.* p. 113.

now much discussed, and most of the royal army said that Hollis and Whitelocke had done well, and like gentlemen; "and we were after this quiet."[1] The next day, at about eight or nine in the evening, they came to visit Lord Lindsay, who was ill, when, unexpectedly, the King and Prince Rupert entered the chamber. A long conversation, and of great interest, ensued.[2] The King quite discountenanced the articles for peace, and, complimenting Whitelocke and Hollis,[3] begged of them to advise him. But they would not speak in a private capacity, although they consented to withdraw and put into writing their own views as to the message they ought to take back. This was done, but Whitelocke did not write the paper in his usual hand, nor with any name, nor was any one present, except Hollis, nor did the King admit any one to hear the conversation which passed. They then left the paper in the drawing-room, and the King, having come in and taken it, bade them farewell, with much favour and civility.[4] On a Sunday soon afterwards, the Earl of Denbigh presented the propositions to the King. The Committee had no power *actually* to treat, and they behaved with some indifference.

[1] "Memorials," vol. i. p. 113. On the other hand, the Royal Commissioners were treated civilly by all sorts of persons.—*Id.* vol. i. p. 119.

[2] It is given at length in the "Memorials," vol. i. p. 113.

[3] Who intimated to the monarch that their own opinions were overruled by a majority.—*Ibid.*

[4] "Memorials," vol. i. p. 114.—See also Clarendon's *History of the Rebellion*, pt. vi. p. 370.

When Lord Denbigh read the names excepted by the Commons, Prince Rupert, and Prince Maurice "fell into a laughter;" but the King seemed displeased, and desired them to be quiet. The Committee again declaring that they had no power to treat, but only to receive His Majesty's answer in writing, the King replied, "Then a letter-carrier might have done as much as you," to which the Earl of Denbigh rejoined: "I suppose your Majesty looks upon us as persons of another condition than letter-carriers?" The King reiterated his little piece of wit rather tartly, and so they parted; but some of the lords afterwards excused those hasty words.[1] However, there were more mocking words to come. For the time having arrived for the King's answer, he sent a paper sealed, which the Committee demurred to receive. "What is that to you?" replied Charles, "who are but to carry what I send, and if I will send the song of 'Robin Hood' and 'Little John,' you must carry it." The Commissioners answered with dignity, that their business was of more consequence than the song, but the matter was apparently smoothed over, and a copy of the answer was sent to the Commissioners.[2] But this was not the answer itself, which might have been in the sealed paper, or might have been "Robin Hood." But to refuse it would have been to break off the treaty, so "we did receive the answer as it was sent to us."[3] And the

[1] "Memorials," vol. i. p. 114. And see Clarendon, as above.
[2] *Ibid.* p. 115. [3] *Ibid.*

deputation returned to the Parliament. Every one severally in their order stood up in their places, and the Speaker solemnly pronounced the thanks of the House to them.[1] And the answer was read, with a resolution for safe conduct for the Duke of Lennox and the Earl of Southampton to come with the answer. . . . . But the treaty was broken off, or rather reserved for the more serious deliberations at Uxbridge. And Charles was sufficiently precipitate to seize Fawley Court and to give it to Sir Charles Blunt, one of his adherents.[2]

In the meantime jealousies began to spring from the army. Colonel Cromwell was fast rising into a dangerous existence, and the Parliamentary General, Essex, was quite alive to the emergency. So it was resolved, if possible, to annihilate this formidable antagonist; but, as we have seen in the life of Maynard, in vain.

And now came the notorious self-denying ordinance. The infatuated Parliament voted that no member of either House should, during the war, enjoy or execute any office or command, military or civil.[3] This, of course, threw the power in the hands of the army, and decided the fate of the Long Parliament. One Zouch Tate brought in the ordinance with the similitude of a boil upon his thumb. And the plot was to get rid of the Lord General Essex.[4] And it passed without ex-

[1] "Memorials," vol. i. p. 115.
[2] "Memoirs," p. 176.
[3] "Memorials," vol. i. p. 118.
[4] *Id.*

cepting any member.[1] But upon the "perfecting" of it, as it was called, Whitelocke spoke against it, as we find in his book;[2] *and it did not pass the Lords* till some time afterwards. The final die was not cast yet. Some parties still yearned for peace, and if the King could have been sincere, on the one hand, and the Parliament somewhat less bigoted on the other, much blood would have been saved, the execution of a crowned head averted, and Charles the Second might have taken a higher place amongst sovereigns. Matters, however, had assumed a character truly sanguinary, for, at this critical period, the Archbishop was relentlessly put to death. . . .

The treaty partook of much solemnity. There were, besides Whitelocke, several Commissioners, and no less than eighty attendants upon them.[3] The safe conduct bears date on the 21st day of January, 1645.[4] The King likewise sent several Commissioners, who, however, took great umbrage at the titles, and, at last, left them with a safe conduct from the Parliament out altogether.[5] All were to meet at Uxbridge on the 29th.[6] This was the famous treaty at Uxbridge, and Whitelocke renewed his acquaintance with Hyde. It is gratifying to notice how long the friendship between

[1] "Memorials," vol. i. p. 119.—Clarendon's *Rebellion*, pt. viii. p. 261.

[2] See the Speech.—"Memorials," pp. 119, 120.

[3] *Id.* p. 124.

[4] *Id.* p. 125.

[5] Clarendon's "History of the Rebellion," pt. viii. p. 214.—"Memorials," vol. i. p. 125.

[6] Clarendon, pt. viii. p. 211.

these eminent and accomplished men continued. Whitelocke was also on excellent terms with Mr. Palmer, afterwards Sir Geoffrey, and Attorney-General to Charles the Second, and likewise with Sir Richard Lane and others.[1] The town was filled with company. Some of the Commissioners were forced to lie "two of them in a chamber, with field-beds, and only upon a quilt, in that cold weather, not coming into a bed during all the treaty."[2] The foreway into the house where they met was appointed for the King's Commissioners, and the backway for the other side. There was a great chamber in the middle, and a large table like that of the Star Chamber. Each party sat at either end, and the Scots Commissioners by themselves. Behind were the divines and secretaries. Then there were drawing-rooms and inner chambers likewise at each end of the great chamber for both parties.[3] So that, there being good staircases, the Commissioners never met, except in the great room.[4]

The first business was a battle about precedence, stirred up by the Chancellor of Scotland, who claimed, amongst other rights, precedence over the English lords, but, after a while, this matter was amicably settled, as well as another of a like character, in which Commissioner Whitelocke himself was concerned. The Parliament were very liberal, both as to diet and entertainment, and "things were ordered

[1] "Memorials," vol. i. p. 127. [2] *Ibid.*
[3] *Ibid.* [4] "Clarendon," pt. viii. p. 215.

very nobly and handsomely."[1] Nevertheless, let us hear the observations of Clarendon, the Royalist.

"It was observed by the town that the King's Commissioners looked as if they were at home, and the other as if they were not in their own quarters; and the truth is, they had not that alacrity and serenity of mind as men use to have who do not believe themselves in a fault."[2]

With regard to religion, the Parliament would not allow the Common Prayer to be read, so that the Royal Commissioners had the great room in the inn for their church.[3] The next point was the limit of time. The allowance of twenty days upon a former occasion had, as we have seen, been so vigorously insisted upon by the Parliament as to cut short the overtures for peace. It was determined that a greater latitude should prevail at Uxbridge. So it was settled that the days of coming and returning should be struck out of the list, and the days assigned to devotion, which were three Sundays and one fast-day.[4]

At no time were evil spirits more at large than during the progress of this internecine war. A conclusion in harmony would have been a miracle. Christopher Love, a fanatic, who was executed on Tower Hill for treason against the Commonwealth,

[1] "Memorials," vol. i. p. 127. [2] Clarendon, pt. viii. p. 216.

[3] "Clarendon," pt. viii. p. 217. The Treaty House at Uxbridge was a celebrated Inn for many years, and, possibly, it may be there now.

[4] *Id.* p. 218.

whose reprieve by Cromwell was intercepted by some old Cavaliers, till they knew that it would come too late, was a mischievous agent at this moment. It was market day, and a sermon was preached according to custom. Many of the royal train, in particular, went to the church from curiosity to see the new forms. Love was a young man, and he came with the Parliament Commissioners, and was the preacher. The place was full, and the minister told the large congregation that they were not to expect any good from the treaty. He denounced the King's deputation as men of blood, arrived to amuse the people with hopes of peace till they could do some notable mischief. His object was, by his violent invectives against the royal party, to raise a mutiny, and, possibly, to destroy the safe conduct of the Cavaliers by public indignation. He was mistaken. A charge in writing was forthwith made against the preacher, with a demand of justice.[1] The other Commissioners appeared angry, and willing to punish; but they said they had no authority, except to have him sharply reprehended and sent out of the town.[2] "So unwilling they were to discountenance any man who was willing to serve them."[3] There was but scanty hope. The Parliament insisted that the whole staff of the Church should be abolished, together with the Common Prayer. The divines

[1] Clarendon's "Rebellion," pt. viii. p. 219.—"Memorials," vol. i. p. 128.
[2] Clarendon, as above.
[3] Clarendon's "History of the Rebellion," pt. viii. p. 219.

argued respectively.[1] But the Marquis of Hertford said they must come to the substantial proposals, for, in his mind, episcopacy was not *jure divino*, nor presbytery, nor any Government whatever.[2] Then came the militia question, which we have already referred to,[3] and this was laid aside for the moment, but was, subsequently, a dangerous difference.[4]

Clarendon tells an anecdote about the religious question. The Commissioners were enjoying the fire and chatting together when one of the royal staff asked a familiar friend of his on the other side why the Parliament had left out in their "Directory" "the Lord's Prayer, the Creed, and the Ten Commandments?" This was overheard by Lord Pembroke, a Republican Commissioner, and, in his usual stormy manner, assevered how sorry he and others were at their being omitted, that the negative was carried by only eight or nine, and so the Peers did not think fit; but "if it were to do again," he thought that they should carry it for inserting all three.

A general smile was visible amongst some to hear that those sacred passages had been put to the question and rejected, and there was a troubled countenance in others for the reason the "good lord had given for the exclusion."[5]

[1] Clarendon's "History of the Rebellion," pt. viii. pp. 225—232.
[2] "Memorials," vol. i. p. 128.—See Clarendon, pt. viii. p. 220.
[3] *Ante*, .
[4] "Memorials," vol. i. p. 130.—Clarendon, p. 233.
[5] Clarendon, pt. viii. p. 232.

The next point was, that the King should prosecute the Irish rebels, and the time was then extended for three days.[1] But the breach was by no means healed by the negociation; on the contrary, it was widened by constant bloodshed and various successes, for the most part, on the side of the Parliament. Lord Pembroke, however, came one night to Hyde's[2] lodgings, and told the truth. He said that the governing part of the Parliament were "a pack of knaves and villains, and that, if now thwarted, they would remove Essex, and constitute such an army as would overpower both King and Parliament.[3] All was now over. The Commissioners on both sides grew cold and reserved. Sharp answers passed, and a paper was received from the Commissioners of the Crown with difficulty, it being past twelve at night of the twentieth day. On Sunday all rested, and on Monday parted with a mutual dryness, as if they scarce hoped to meet again.[4] Thanks were voted by the Parliament to their Commissioners.[5]

We must now go back for a very short time to the attempted treaty at Oxford. One feature amongst the Parliament chiefs was, that they were for ever jealous of each other. By the self-denying ordinance Essex was got rid of. Essex, on his part, sought to

[1] "Memorials," vol. i. p. 132.
[2] Chancellor of the Exchequer.
[3] Clarendon, pt. viii. p. 243.
[4] *Id.* pp. 251, 252.—"Memorials," vol. i. p. 134.
[5] "Memorials," vol. i. p. 134.

overturn the rising Cromwell. And now there was a serious design afloat to stop the career of Hollis and Whitelocke by an impeachment for high treason. One Lord Savile was the agent, and the charge was for advising the King when we were engaged for the Commons, by giving the monarch a paper in writing. They did give such a paper to Lord Lindsey, but there was no advice in it. Whitelocke was not in the house, but Hollis answered on the spot, and with little prudence. Upon which the cry was, as usual, "To the Tower." But Sir William Lawys rose, and made a most able and damaging speech, denouncing Lord Savile as a double traitor, and an *accuser of the brethren*. He insisted that the paper should be thrown out and the contriver committed. This speech changed the scene, and Whitelocke made his defence, which he has handed down to us at length.[1] In the end, after considerable debates, both Hollis and his Oxford friend were honourably acquitted, and, further, leave was given that they should have liberty to prosecute the Lord Savile, then a prisoner in the Tower, for damages.[2] This blow came from the Independent party. It was in 1645. In 1647 Whitelocke had some further trouble concerning the matter of Hollis and the eleven members, but he escaped, his name being struck out of the proceedings.[3]

[1] "Memorials," vol. i. pp. 153—156.

[2] *Id.* p. 161.—Rushworth's "Collections," vol. iv. pp. 177, 178, 179.

[3] "Memorials," vol. ii. p. 259.

In 1645 the famous interview between the Earl of Essex, the Scots' Commissioners, Maynard, and Whitelocke, took place. The wise counsel of these eminent lawyers prevailed.[1]

In the same year Whitelocke took part in the debates concerning excommunication and suspension from the Sacrament. The simple question was, whether in any presbytery or presbyterian congregation the pastors and ruling elders should have these powers?

We are indebted to the unwearied writer for his own speech and that of Selden, both in condemnation of such arbitrary discipline.[2] The matter was referred to a Grand Committee, and the eloquent speaker was rewarded by the Presbyterians with the titles of "disciple of Selden and an Erastian."[3]

The Court of Wards, abolished by the early Parliament of Charles the Second, received its first summons in 1645, when Selden, Maynard, St. John, Whitelocke, and other lawyers condemned it, and the lords concurred in the abolition.[4]

The eminent counsellor, now a Lord of the Admiralty,[5] was still a martial man. It does not seem that the silly, self-denying ordinance came finally into

[1] See Rushworth's "Collections," vol. iv. p. 3. In p. 4, Whitelocke's Speech is given. We have related in the life of Maynard a full account of this remarkable conference.

[2] "Memorials," vol. i. pp. 169, 170.

[3] *Id.* p. 170.

[4] *Id.* p. 194.

[5] Wood's "Athenæ," by Bliss, vol. iii. p. 1,042.

operation till he was called upon to take the command at Henley. In 1646 Serjeant Welde[1] came as Commissioner of Oyer and Terminer to Worcester, and Whitelocke, being near at hand, in his garrison at Phyllis Court, received the Judge on his way at the draw-bridge, with his retinue. The Serjeant called his host Colonel Whitelocke, which might well be. He had 300 foot and a troop of horse in garrison, besides the power of Henley Town. He treated the Judge with great respect, and, when he left, presented him with the "linstock," a ceremony due to persons of condition when they come into garrison, that they may, as it were, assume a command and fire the great guns. So there was a shout, and five great guns were fired.[2] During this year, 1645, we should mention that a serious illness befel him, through his labours and anxieties for the Commonwealth.[3] In this illness he was visited by Lady Willoughby, the Dowager Lady Thornhill, and the Countess of Holland.[4]

Cedant arma togæ. "*Ubi victor flet, et victus perit.*" Campbell rather anticipates the dislike of the lawyer to martial glory.[5] For, as we have just seen, he was Colonel Whitelocke in 1646, and Campbell was referring to 1644. Nevertheless, the remark is not irrelevant. His courage certainly could not be

[1] Wilde. There was a Serjeant Weld,—another person.

[2] "Memorials," vol. ii. p. 217. [3] "Memoirs," p. 223. [4] *Ibid.*

[5] "Chancellors," vol. iii. p. 24. And there is a letter in the British Museum to the same effect; "Memoirs," p. 231, note. He persuaded most of his men to enlist for Ireland.—*Id.* p. 232.

doubted, and already, in our story of him, we have recorded his valiant behaviour, but it is not unlikely that a man who had seen his house and grounds plundered once by his foes, and, again, once more, by his friends, should prefer the sweets of civil employment. These were abundantly showered upon him. He was made Steward of the lands of Westminster College in 1645, on account of the services which his father had rendered.[1] In 1644 he had been Lieutenant of Windsor Castle.[2] In 1648 the Earl of Pembroke made him Lieutenant of the castle and forest,[3] and during the Protectorate he was made Governor.[4] . . . He was named for Lord Justice of Ireland, but he had the shrewdness to see that it was a plan to exile him. Upon which, Cromwell and his party, finding him firm and determined to remain, espoused many of his views, desired his company, and sought his advice.[5]

Like his contemporary, Maynard, he was learned in the languages. It was resolved to undertake the printing of the Septuagint translation of the Bible. Mr. Patrick Young,[6] Selden and himself undertook the task. Mr. Young had in his custody a famous ancient copy, if not an original manuscript.[7] Some time after this,

[1] "Memoirs," p. 226.

[2] "Memorials," vol. i. p. 109.

[3] "Memorials," vol. ii. p. 323, and see the "Parliamentary Survey," and Tighe and Davis's "Annals of Windsor," vol. ii. p. 241, &c.

[4] Lysons's "Magn. Brit.," vol. i. p. 432.

[5] "Memorials," vol. ii. p. 249. At a far later period he was actually offered to be made Governor of Dunkirk by the Lord Protector, two months before his death.—"Memoirs," p. 427.

[6] Formerly the Library Keeper at St. James's, and a great scholar.

[7] "Memorials," vol. ii. p. 257; "Memoirs," p. 236.

Whitelocke had the charge of managing the deliberations of a Committee concerning the translation and impressions of the Bible. The Committee often met at his house, where were assembled the most learned men in the Oriental tongues. Several excellent observations were made respecting some mistakes in the English translation, but it was agreed to be *the best of any translation in the world.* The labour became fruitless, by the dissolution of the Parliament.[1] And so highly were his talents esteemed, that he was named with the Lord General and others to write the history of the times. This was in 1651.[2]

Speaking of Selden, such was the regard between him and Mr. Whitelocke, that, one evening at the Countess of Kent's, Selden told him he intended after his death to "be beholden to him," and should have a place in his study, where he would leave some papers declaring his intent and will.[3]

Selden was neither oblivious of his friend, nor of his own wishes, that he should be the guardian of his interests. On the 10th of November 1654, Selden writes thus to Whitelocke:—

"My Lord,

"I am a most humble suitor of your Lordship, that you would be pleased that I might have your

[1] "Memorials," vol. iv. p. 654; Bisset's "Hist. of the Commonwealth," vol. ii. p. 226, citing the *Order Book of the Council of State,* October 27, 1651, MS.

[2] "Memorials," vol. iv. p. 654.

[3] "Memoirs," p. 237.

presence for a little time, to-morrow or next day. This wearies the most weak hand and body of

"Your Lordship's most humble servant,

"J. SELDEN."

"His friend went to him as desired, and was consulted by him as to the settlement of his estate, the alteration of his will, and a change of executors; but Selden's weakness increased so rapidly, that his intentions were prevented."[1]

Of his forensic success in 1647, the Commissioner gives a jubilant narrative. He sat as Lord Commissioner immediately afterwards, but, at his instance, not till the Circuit was ended. "I was engaged in many men's businesses, and the House made no order for it."[2] In this year, the records at Reading were forty-four; he was retained in forty-eight causes. At Oxford, thirty-five; his retainers, forty-four. At Gloucester, ninety-nine; he was retained in fifty. At Monmouth, ten; he was of counsel in thirteen. At Hereford, fifty-three; he was retained in thirty-nine causes; and at Shrewsbury there were ninety-nine records, and he was counsel in fifty-four causes.[3] In some places his retainers exceeded the records; in others, he was not by any means in *all* the causes, but not the less the most distinguished advocate in those counties. Yet, many years before this high career, his business had fallen

[1] "Memoirs," p. 404. [2] "Memorials," vol. ii. p. 293.
[3] "Memorials," vol. ii. pp. 294, 295, 296.

away considerably. He was sufficiently imprudent to refrain from going the whole Circuit, a dangerous step in those days, and he had the awkward merit of having been a Judge's favourite.[1] And so grievous was his decadence in business, that he was advised by his relatives to relinquish the profession, but was dissuaded by the Archbishop. His triumph is celebrated by his own unquestionable narrative.[2]

In 1648 Glyn was removed from the Recordership of London, and it was intimated to Whitelocke that the city would have him for their Recorder, but he declined the honour.[3]

He was subsequently again offered this place, but he once more declined it, not so much because of the distracted state of the city, but because "his conscience condemned some of the points of our law in capital cases. He would have had, for instance, to sentence to death men guilty of stealing a horse or a sheep, or a yard of lace from a shopkeeper's counter, or a watch valued at £2, and he was not willing to be turned into a judicial murderer, like the twelve Judges of England down to a few years ago, for the sake of a handsome salary."[4]

But his literary tastes were much gratified. He succeeded in having the manuscripts and books in Whitehall removed to St. James's. They were rare

[1] "Memoirs," p. 87.
[2] "Memorials," as above.
[3] "Memorials," vol. ii. p. 269.
[4] "Memoirs," p. 241.

monuments of learning and antiquity. He was afraid of the soldiers,[1] and, again in 1649, he was induced to accept the place of Library Keeper at St. James's, fearing that the medals and books might be embezzled and sent beyond sea.[2] Considerably before this time, he had prevailed with the house to bestow upon him all the books and manuscripts of Lord Littleton, who had gone beyond sea. This he did for fear of the sequestrators, and with the honest intention of restoring them, if possible, to the owner, or to some of his family.[3]

A receipt for these books, and also one for those of Lord Keeper Lane is extant.

"Sept^r. 2, 1646, 22 Car. I. By virtue of an order of the House of Commons, I have received from the Committee of the Venew the some of £208 for one year's payment of £4 a week, ended the 24th day of March, 1646. And I have likewise *obtained* some bookes and manuscripts, which were the Lord Little-

[1] "Memorials," vol. ii. p. 288.

[2] *Id.* p. 415. He was urged to this by Selden, who "swore" that if he did not take charge of them, they would be lost. "There were not the like to them, except only in the Vatican, in any other library in Christendom." So he had his Deputy Keeper, with lodgings for his own use. *Id.* pp. 415, 416; "Memoirs," p. 261; Wood, by Bliss, vol. iii. p. 1043. This collection, thus preserved, formed the basis of the Royal Library, and MSS. and printed books presented to the British Museum in 1757 by George the Second. "It contained the celebrated MS. of the Septuagint, 'for which,' says Whitelocke elsewhere, 'I could have had hundreds of pounds, if I could have been corrupted to part with it.'"—*Swedish Embassy*, by Reeves, vol. i. p. 72, n.

[3] "Memorials," vol. i. p. 172.

ton's, and some few bookes and manuscripts which were Sir Rich. Lane's, in all worth about £80.

"(Signed) BULSTRODE WHITELOCKE."[1]

Wood is not by any means satisfied with the mode by which Whitelocke acquired Lord Keeper Lane's library. "He entrusted," says the author of the "Fasti," "his intimate friend, Bulstrode Whitelocke, a counsellor of the Middle Temple, with his chamber there, all his goods therein, and an excellent library."[2] "In his absence, his son was conducted to the said Whitelocke, then in his greatness, to the end that the said goods of his father's, then in his possession, might be delivered to him for the use of his said father, who then wanted them; but Whitelocke would not own that he knew such a man as Sir Richard, and therefore, he kept what he had of his, to the great loss of him, the said Sir Richard, who died in Jersey, or in France."[3]

Yet so zealous was Whitelocke for Oxford, that when the surrender of the city to the Parliament was imminent, he asked leave of the House to go into the country, and rode over to Fairfax's camp. He went to procure the most favourable terms for the university. He was most cordially received by Cromwell, the second in com-

[1] Peck's *Desiderata Curiosa*, vol. ix. p. 366. From the MS. Collections of John Nalson, LLD.

[2] Wood's "Fasti," by Bliss, vol. ii. p. 63. [3] *Id.* p. 64.

mand, and as soon as the articles of surrender were settled, favourable for Oxford, he assisted at the military councils.[1] On the 7th of the following December, an order was made to free the libraries, and "other things" in Oxford from sequestration.[2]

At this time, also, he was keeper and steward of the Manor of Greenwich, which, he says, he gave up to Lord Pembroke in exchange for Windsor.[3] Here he assumed the mastery, and objected to a warrant from Cromwell authorizing some men to measure ground in Windsor Forest, calling it irregular and meddling, and he forbade the work.[4] Here, he was wont to retire from turmoil and official cares, and here he entertained General Ludlow with a stag hunt.[5] He seemed to be fond of venison, for once, when he was ill, Mr. solicitor St. John sent him half a stag.[6] When he came to Windsor town, the ringers, no longer having the anniversaries of the royal family to commemorate, complimented his occasional visits with a merry peal.[7]

He had, likewise, the office of Constable of the Castle some time before 1653.[8]

In the Chamberlain's account appears an entry:—"P^{d}. for too barrells of ale sent to the Lord Whitlock

[1] "Memoirs," p. 230.

[2] *Id.* p. 233. See also the letter from Dr. Morley to him.—*Id.* p. 235.

[3] "Memorials," vol. ii. p. 385; Lysons's "London," vol. iv. p. 437. See a letter of Lord Pembroke to him, asking for some privileges in Windsor Forest for a noble lady.—"Memorials," vol. ii. p. 405.

[4] "Annals of Windsor," by Tighe and Davis, vol. ii. p. 262.

[5] *Ibid.*—"Memorials," vol. ii. p. 421.

[6] *Id.* vol. i. p. 173.

[7] "Annals of Windsor," vol. ii. p. 263.

[8] *Ibid.*

30s. and for excise 4s. carryage to Lond. and from thence to Chelsy in a wherry, w^th^. porters to carry it to ye house 7s., and for the cask 7s.; the whole charge is 0.2. 0.8. 00."[1] And another:—"P^d^. ffor too suger loves sent at the same tyme to ye Lo. Whitlock, 00. 12. 06."[2] By letters of Privy Seal, dated the 17th of May, 1657, he was appointed Constable of the Castle, and a grant was made to him of £32 10s. during his life.[3] And, two years afterwards, it was proposed to grant a Commission to him to be the Governor, with power to appoint a Deputy-Governor,[4] but another Governor was made, whilst he remained Constable.

About this time, likewise, he was in great practice at the bar, where he was making near £2,000 a year.[5]

In March, 1647, although living at his fortified place, Phyllis Court, in comparative retirement,[6] Whitelocke with Sir Thomas Widdrington, and the Earl of Kent were sworn Commissioners of the Great Seal. He received these unexpected news at Gloucester on the Circuit, and the counsel, officers, and attorneys wished him joy of the honourable employment. This was done after a great debate amongst the private junto of Cromwell's party.[7] To these the Lord Grey of Werke was soon added,[8] and the salary

[1] "Annals of Windsor," vol. ii. p. 279.

[2] *Ibid.* See more entries, *Id.* pp. 274, 279.

[3] Tighe and Davis's "Annals," vol. ii. p. 277. [4] *Id.* p. 278.

[5] "Memorials," vol. ii. p. 326. "Leave having been given to the lawyers to go their Circuits."

[6] "Memoirs," p. 237. [7] "Memorials," vol. ii. p. 293.

[8] In May; "Memorials," vol. ii. p. 295, and see *id.* p. 300.

was fixed at £1,000 a year.[1] He, probably, took the house and grounds at Chelsea at this time, where he lived as Lord Commissioner for some years.[2] Upon this promotion, he resigned the place of Attorney to the Duchy, which he had enjoyed with much contentment, owing to the privacy and credit of it, and further, he was permitted to choose his successor, with the same fees and privileges as himself.[3] The new Great Seal had the inscription: "In the first year of freedom, by God's blessing restored,—1648." For a short time, however, he stood in fear of the self-denying ordinance, which threatened his place of Commissioner, as long as he remained in the Commons. He complained that he had thrown up his large income for a place which, at the most, gave him but £1,500 a year.[4] Just at this critical juncture, there was a last attempt at a kind of treaty in the Isle of Wight, but Whitelocke was busy in Chancery, and said he did not desire to enter again upon that matter, having failed so frequently of success.[5] In July, notwithstanding his earnest remonstrances, his intimate friend, the Earl of Holland, raised the standard of revolt against the Parliament, for which he perished on the scaffold.[6]

Whitelocke was now to take the step which gives us a title to include him in our collection. He was to be

[1] *Id.* p. 300. There was also some "box money," which on the 2nd of June amounted to £27. He could not account for the custom.—"Memoirs," p. 243.

[2] Burn's "History of Henley," p. 246.

[3] "Memorials," vol. ii. p. 300.

[4] *Id.* p. 326.

[5] *Id.* p. 334.

[6] "Memoirs," p. 243.

created a Serjeant. Even under the Republic, no man was bold enough to extinguish the noble and ancient dignity of the Serjeant-at-Law. It was not thought by any means irrelevant that a Lord Commissioner should be a Serjeant. Indeed, the Serjeant had a far higher origin than the Judge. Whence it was that the Judge could not accept office unless he first took upon himself the degree and dignity of the coif. So, in October, 1648, amongst other members of the four Inns of Court, Sir Thomas Widdrington, of Gray's Inn (his brother Commissioner) and himself of the Middle Temple, were called, and *voted* to be Serjeants. Whitelocke, however, was again made Attorney-General of the Duchy, and a King's Serjeant. And Widdrington went out King's Serjeant. Thus we are in a position to give this eminent person a place in our narrative, although he earnestly desired to be excused from being His Majesty's Serjeant, but in vain. In the debate upon the subject, the compliments of the House, he relates, "were too high to be remembered by me."[1] His being sworn, however, was suspended, in order that as Commissioner he might make a speech to the new Serjeants.[2] With regard to precedence, when all, both old and new, supped together at Lincoln's Inn, it was agreed that Mr. Solicitor St. John should have the first place before the new Serjeants, Sir Thomas Widdrington the second, and Whitelocke the third. The rest in their order.[3] It was not a

[1] "Memorials," vol. ii. p. 342. [2] *Id.* p. 345. [3] *Id.* p. 347.

little remarkable that the new brethren should appear before the Lords Commissioner's Serjeants in the Queen's Court, to be called in.[1]

The times were now becoming troublous, and the royal tragedy was approaching. In December, 1648, it was with difficulty that the Commissioners could transact business.[2] The Seal was brought to them in the Court of Wards. Upon the next morning, however, the causes were put off, and the Judges returned home.[3] However, on the day after, they sat in the Parliament Chamber on Whitelocke's motion, and heard fifty demurrers.[4]

He and Sir Thomas Widdrington were now to decide upon what course they would take with regard to the Sovereign. They much scrupled to go near the Commons.[5] They had a long interview with Cromwell as to the settlement of the kingdom.[6] And they stayed all day together on the 22nd, in order to draw out some heads, and endeavour "to bring the army into some fitter tempers." Nothing came of it. The army, nevertheless, were too subtle to take the responsibility of trying their own monarch upon

[1] "Memorials," vol. ii. p. 348. It fell to the lot of the Lord Commissioner to make the speeches to Chief Baron Wild and the new Serjeants, which are learned, and well worthy of attention; *Id.* pp. 349—352, 352—355. See the ceremony of making the new Serjeants; *Id.* p. 356. "Their robes and officers," he said in his speech; "their bounty in giving rings, their feasts, which Fortescue saith were '*Coronationis instar*, and continued anciently seven days.'"—*Id.* p. 354.

[2] "Memorials," vol. ii. p. 360. [3] *Ibid.* [4] *Id.* p. 361.

[5] *Id.* p. 363. [6] *Id.* p. 362. [7] *Id.* p. 363.

themselves. They preferred to leave that task to their tools in the House. And a Committee of thirty-eight were voted to draw up the charge, of whom Whitelocke was one.[1] But "I never attended that Committee," said he, "to consider of drawing up a charge."[2]

Matters had now assumed their most serious aspect. Such was the shadow of royalty, that there was a debate whether the new Serjeants should send a ring to the King, and it was put off.[3]

However, Sir Thomas Widdrington and Whitelocke went by appointment to the Speaker's house, where several of the Commons met them. Some were for having no King at all, others were for his third son, who should be educated by the Parliament, but all were against the sword.[4] Then Mr. Elsing, a great friend of Whitelocke and Selden, Clerk of the Parliament, resigned, for he would bear no hand against the King. He gave "noble entertainments."[5]

Again were Widdrington and Whitelocke sent for to the Republican Committee, but they knew what would be required of them, and refused to attend. So he and his brother Commissioner went into the country, probably to Fawley Court, to stay till this business should be over.[6] And when he was asked to sign his approval of the proceedings of the High

[1] "Memorials," vol. ii. p. 363.
[2] *Ib.*
[3] *Id.* p. 357.
[4] *Id.* p. 364.
[5] *Ibid.*
[6] *Id.* p. 365.

Court of Justice, he declined.[1] The next thing was to send for the mace out of chancery, upon which such of the Commissioners as were then present went home.

He seemed, now that the change was completed, to have gone back to the House, and to the Court, for he insisted upon a Habeas Corpus for Mr. Pryn, and succeeded in persuading the members not to deny it.[2]

In January, 1649, and just before the execution, he called on Lord Chief Justice Rolle (the ancestor of Lord Rolle), who strongly encouraged him to continue his attendance in the House. The Judge was in trouble, and scrupled much about casting off the Lords' House.[3]

There was still a semblance of law, for it was desired to adjourn the term by reason of the King's trial, and much debate ensued, upon which the Commons voted themselves the supreme power.[4] But the hesitation still continued as to signing the writs of adjournment, because the Lords' Commissioners of the Great Seal did not join with them;[5] but at length the two Commoners, Commissioners, issued the necessary warrants.[6]

The sentence of death upon Charles sorely troubled Whitelocke. He heartily prayed it might not be executed.[7] The fatal day, however, arrived. "I

[1] "Memorials," vol. ii. p. 383.
[2] *Id.* p. 368.
[3] *Ibid.*
[4] *Id.* p. 369.
[5] *Id.* p. 370.
[6] *Id.* p. 372.
[7] *Id.* p. 374.—Burton's *Diary*, vol. ii. p. 431, n.

went not to the House," writes Whitelocke, "but stayed all day at home in my study, and at my prayers, that this day's work might not so displease God as to bring prejudice to this poor afflicted nation."[1]

Notwithstanding these emotions (and we are willing to give credit to their sincerity), he was deeply committed with Cromwell.[2] After the interview with Essex, the Lieutenant-General treated him with great courtesy, and a very short time after the King's death Cromwell and Ireton went home with him to supper, and were cheerful, and well pleased.[3] He was compelled to draw an Act to take away the House of Lords,[4] and, the old Seal being broken, he was invited, with Widdrington, to accept the Commission of the new Seal.[5] Widdrington, however, desired to be excused, on the ground of some scruples of conscience; but as he did not impeach the authority of the House, they ordered that he should practise within the Bar, and gave him "a quarter's wages, more than was due to him."[6] But his brother Commissioner, although he gives us his speech of excuses,[7] suffered his willing-

[1] "Memorials," vol. ii. p. 376.—See the "Memoirs," pp. 256, 257.

[2] *Id.* p. 378.

[3] *Id.* p. 384. They sat till twelve at night, and, according to Whitelocke, the conversation was highly fanatical.—See the "Memoirs," p. 259.

[4] "Memorials," vol. ii. p. 377.

[5] *Id.* p. 378. See the ceremony of breaking the old, and delivering the new, Seal.—*Ibid.*

[6] *Ibid.* There is a curious letter from Widdrington to him in 1649, in which the writer speaks of a Scotchman who had a faculty for discovering witches, and got 20s. for every witch.—*Id.* p. 424.

[7] *Id.* p. 378.— "Memoirs," p. 265.

ness to take office to be too apparent. Therefore he was voted a Commissioner with John L'Isle[1] and Serjeant Keble,[2] and, in spite of their dislike to the "Lords," the House voted the title to the "Lords' Commissioners," with a new Great Seal.[3] He was immediately afterwards appointed to be one of the thirty-eight members of the Council of State.[4]

We find him about this time reflecting upon his success at the Bar, and contrasting the narrow salary of his high office with his former gains. In fact, he speaks plainly that, owing to the style of his place, he spent more than he gained.[5] Yet he was the Commissioner selected to make the speech to the new Judges, in which, after telling them that they were

[1] See an account of him, not very flattering.—*Harl. Misc.*, vol. iii. p. 479.

[2] "Memorials," vol. ii. p. 379; Burton's "Diary," vol. ii. p. 431, n. Lord Campbell is agreeably facetious as to this Serjeant Keble. "A drowsy Serjeant of the name of Keble, known only for some bad law reports, was added to the number, and joyfully accepted his appointment;" "Chancellors," vol. iii. p. 43. *Drowsy Serjeant* Keble might have been, but he was Richard Keble, Serjeant-at-Law, not "Jos. Keble of Grey's Inn, Esquire," the author of the three thick volumes of very indifferent "Reports." Mr. Andrew Bisset has discovered the same error, and has given some interesting particulars of the reporter, Joseph Keble, chiefly from the *Biog. Britannica*—"History of England from the Death of Charles I.," vol. i. p. 245, n. But Keble's "Reports," although bulky, have never attained any eminence in Westminster Hall. "Joseph Keble was one of the singularities of Hampstead. He was a voluminous law reporter, who had a small estate at North-End, where he lived during the vacation. He usually walked to Hampstead, and a Mr. Keble, a bookseller in Fleet Street, a relative, reported of him, that he 'generally performed the walk in the same number of steps, which he often counted.' He died suddenly in Holborn Gate, Gray's Inn, as he was about to take the coach to Hampstead, aged sixty-eight."—"Northern Heights of London," 1869, p. 233.

[3] "Memorials," vol. ii. p. 379.

[4] *Id.* p. 381.

[5] *Id.* vol. iii. p. 392. He got, however, through Commissioner L'Isle, the Duke of Buckingham's House for the service of the Seal.—*Id.* p. 44.

the first Judges publicly sworn in the Commonwealth, he addressed them in a very learned oration.[1] . . . . .

The next preferment was a patent from the Mayor and citizens of Oxford to be High Steward of their city by an unanimous choice in the room of the Earl of Berkshire,[2] and he was likewise elected Recorder.[3] And he again resigned the place of Attorney of the Duchy, retiring to his manor lodge in Windsor Park.[4]

In this year[5] he lost his wife, and records her honour in a letter received from his friend, Sir J. Holland, who was beyond sea.[6] His brother, William Willoughby, brought him these sad news. It was the saddest day he had yet known. So much was he overpowered that he omitted to make any entry in his Journal, too heavily smitten at the time to think of anything.[7] But he rallied, and in three weeks had to dine at the Lord Mayor's,[8] and he had to meet a very extraordinary proposal in the House, to exclude practising lawyers. And this he did in his address to the House, by a very erudite exposition of old law.[9]

There was but one unhappy Parliament (6 Hen. IV.) in which this mischief was effected.[10] The King, being

[1] Which he gives at length.—*Id.* p. 407.

[2] "Memorials," vol. ii. p. 409.

[3] Wood, by Bliss, vol. iii. p. 1,043.

[4] "Memorials," vol. iii. p. 412.

[5] 1649.

[6] *Id.* p. 416.

[7] "Memoirs," p. 260.

[8] "Memorials," vol. iii. p. 402; "Memoirs," p. 266. Where all was solemn "down to the funeral baked meats. No healths were drunk; *Ibid.* I question whether he smiled again for many a long and weary year, unless when officially or diplomatically engaged."—*Ibid.*

[9] See Campbell's "Chancellors," vol. iii. p. 48.

[10] "Memorials," vol. iii. p. 432.

in great want of money, summoned the Parliament, and caused to be inserted in the writ this clause of *Nolumus*, to exclude the lawyers, because he doubted that they would oppose the excessive demands which he was about to make.[1]

In his long and memorable speech he seemed to have anticipated the coming days of William, and though, at a far distant interval, those of our prisoner's counsel bill. "Sir," said he, "one thing was mentioned with some weight. Lawyers were permitted to plead for men in matters touching their estates and liberties, but, in the greatest matters of all others, concerning a man's life and posterity, lawyers were not permitted to plead for their clients. I confess," he added, "I cannot answer this objection, that for a trespass of sixpence value a man may have a counsellor-at-law to plead for him, but where his life and posterity are concerned, he is not admitted this privilege and help of lawyers."[2] The objection was made in pique, and it did not succeed. He had nothing, however, to offer against this, if, during their membership, merchants should forbear their trading, physicians from visiting their patients, and country gentlemen from selling their corn or wool. He was loudly applauded.[3]

It was a considerable circumstance, that even in these times constitutional lawyers were at hand to

[1] "Memorials," vol. iii. p. 431.

[2] *Id.* p. 433.

[3] Campbell's "Chancellors," vol. iii. p. 49. See a curious and interesting note upon the subject.—*Ibid.*, n.

resist the petty tyrannies of newly-born power. The Parliament, exulting in their success, began to assume general jurisdiction, and to sentence persons *secundum arbitrium.*

"I was one," Whitelocke relates, "of many lawyers who disliked this, and advised that the ordinary course of justice should be appealed to. But the dominion and power was sweet to some of them, and they were very unwilling to part with it."[1]

In February, 1650, he was named one of the Council of State, as Lord Commissioner.[2] In this capacity he soon had to advise upon the important question, whether the Parliament should invade Scotland, or await the march of the Scotch army into England. The Lord General Fairfax was, at first, for the advance of the forces, but the Presbyterian Ministers and his own lady caused him to scruple, of course declaring himself to resist any attack from the North. Upon this the Lord Commissioner, with Cromwell, Lambert, Harrison, and St. John, had an interview with the General, the particulars of which are minutely related in the "Memorials."[3]

Fairfax was inexorable, and threatened to resign his Commission, which Cromwell and the soldiers earnestly opposed. But it is dryly enough added, "Yet there was cause to believe that they did not over-much desire it."[4] And thus, as Fairfax retired

[1] "Memorials," vol. iii. p. 440.
[2] *Id.* p. 441. And again in 1651.—*Id.* p. 488.
[3] *Id.* p. 460.—"Memoirs," p. 274.
[4] "Memorials," vol. iii. p. 462.

immediately aftewards, Cromwell was named Captain-General and Commander-in-Chief, and an act passed accordingly.[1]

In December, 1650, we have another very long and learned address in the House. Hitherto law proceedings were carried on in the Latin tongue, but there was now a strong movement to adopt the English language. Whitelocke in his speech[2] inveighs against soldiers who scoff at the law and seek to destroy it; but "the law is above the reach of such weapons," he exclaimed. He was justly indignant. "An emperor took a bishop in complete armour in a battle, and sent the armour to the pope, with these words: *Hæccine sunt vestes filii tui?* So I say as to railings, taunts, and threats against the law: *Hæccine sunt argumenta hominum Antinomianorum?* They will be found of no force, but recoiling arms."[3]

An act being introduced, it was unanimously passed.[4]

The death of the Monarch of England, mistaken and faithless, as some might think him, caused a sensation, which enraged the Scots and excited all royalists to raise the standard in favour of the Second Charles. Cromwell, however, was an experienced General, and never shrank from a long march, or a stout battle. So when the King was leaving Scotland, Cromwell continued to place his army in the rear, and compelled the celebrated, but fatal Worcester fight. The well-

[1] "Memorials," vol. iii. p. 462.
[2] Given at length.—*Id.* p. 478.
[3] *Id.* p. 483.
[4] *Ibid.*

known victory brought valuable and complimentary consequences to Bulstrode Whitelocke.

The Parliament appointed four of their members, of whom he was one, to go out of town to meet the General upon his way from Worcester to London with great congratulations.[1] This mission was fulfilled, and great kindness and respect were shewn to the messengers, after which there was a long discourse and a supper with the General. Cromwell made each a present of a horse and two Scots prisoners. The horse "was a very handsome, gallant young nag of Sir John Fennick's breed." Whitelocke released his prisoners, and gave them passes to go to their homes in Scotland.[2]

In 1651 the Parliament chose a Council of State for the fourth time, and Whitelocke had 113 votes, being the next to Cromwell, who received 118.[3]

As early as in 1652 Cromwell had an eye upon regal power. But he was wary, and weighed every movement. Upon the defeat at Worcester the question of Government might be safely considered, for the King of *Scots* had fled. So the matter of a republic or a mixed monarchy was introduced by Whitelocke.

Cromwell: "My Lord Commissioner Whitelocke hath put us upon the right point. If anything monarchical should be settled, then we must consider *in whom that power shall be placed.*"[4] The King's third

[1] "Memorials," vol. iii. p. 509. [2] *Ibid.*
[3] Bisset's "History of the Commonwealth," vol. ii. p. 234.
[4] "Memorials," p. 516.—"Memoirs," p. 295.

son, the Duke of Gloucester, being suggested as too young to have borne arms against the Parliament, Cromwell dexterously parried the hint, and again intimated that "a settlement of somewhat with monarchical power in it would be very effectual." The soldiers were against monarchy, but the lawyers were for a mixed monarchy, so that there was no result, except that Cromwell had discovered the inclinations of the company.[1] Cromwell, however, was not much pleased with Whitelocke, and he was not one of the new Council called in July, 1653.[2]

The Commissioner's fitness for a foreign embassy was now revealed. Many years since he had attended a Committee which gave audience to the "Queen of Sweedland's agent."[3] And now, in 1652, he was requested to attend to the business of foreign treaties.[4]

Ireton being now dead, there was a vacancy in the chief appointments in Ireland, and it was proposed, upon a vote in Parliament, to send out Commissioners, and make Whitelocke the chief. But he excused himself, for he suspected that it would have been a promotion from ill will, and as he had rather displeased Cromwell by not yielding to his pleasure in some Chancery causes, it was believed by some that the General was forward in the matter, but a resolute

[1] "Memorials," vol. iii. pp. 516, 517.—"Memoirs," p. 297.
[2] "Memoirs," p. 308.
[3] "Memorials," vol. i. p. 120.
[4] "Memorials," vol. iii. p. 528. "Wherein my attendance and labour was not small or easy."—*Ibid.*

denial prevented the nomination. And the next day Cromwell himself tried to overcome the lawyer's reluctance, but in vain.[1]

About this time he had a grateful letter from Sir William Davenant, whose liberty he had procured from confinement in the Tower.[2]

Whitelocke might well say to the Queen of Sweden, "Madam! I have been a true servant to your sex."

Not very long after the decease of Lord Willoughby's daughter, but upon a day, the date of which is uncertain, he married once more into a city family, espousing the widow of Alderman Wilson. The marriage is said to have been solemnized by a Presbyterian or Independent clergyman, the Prayer-Book being under an interdict.[3]

"All the descendants of the man, whose life we are now writing, have sprung from this third marriage."[4]

Alderman Wilson had been a Member of the House of Commons, and of the Council of State, and was a Colonel in the army. He had been honoured by a public funeral.[5] "So much, and no more, do we learn from the 'Memorials;' but they have kept profound silence as to the fact, that he left a widow, young, handsome, and very opulent."[6]

By birth, education, and conviction, she was a rigid Puritan, yet devoted to her second husband, cheering

[1] "Memorials," vol. iii. p. 536.
[2] *Ibid.* p. 546.
[3] "Memoirs," p. 282.
[4] *Ibid.*
[5] *Ibid.*—"Memorials," vol. iii. p. 444.
[6] "Memoirs," p. 282.

him in his solitude and tending him affectionately in his last excruciating agonies. She at once assented to the settlement of Sir Bulstrode's paternal and acquired property upon his children by the other marriages, and she left the remains of her own fortune to her own children.

Whitelocke's means are said to have been limited, and his losses great. According to the "Memoirs," Charles required a large sum for the royal pardon.[1] So solicitous was she for his safety that when he was in concealment for fear of the vengeance of the Rump Parliament, she destroyed most of his private notes and minutes of his interviews at Whitehall or Hampton Court, though he much regretted their loss.[2]

At the end of the year he was walking in St. James's

[1] "Memoirs," p. 283. Some years since, at an auction of books in Piccadilly, a small duodecimo MS. was purchased, and restored to the "true owners." It was abstracted from the family two hundred years before, and signed "Mary Whitelocke." Whilst her husband was writing his works at Chilton Park she was engaged upon one for her son Samuel, the heir to the estate purchased with her money. This was a domestic history complaining, amongst other things, of the conduct of Alderman Wilson's parents towards her because he had died childless, but still more because he had left all his fortune to his widow. She then falls into a train of religious reflections, and is minded to take another husband, according to the Alderman's desire. "When I was in this sweet frame of spirit," she says, "there came a grave gentleman that had ten children, which, at the first motion, did startle me, and did cause all my friends to be against it." However, she proceeds, finding excellent reason for the match, not because of his high place, for she had refused "both riches and very great honours," but because she thought he might be an instrument in doing more good for God's people. But further, she eulogises her marriage as a most happy union, and her account may be deemed a faithful narration.—See the "Memoirs," pp. 283—288.

[2] *Id.* p. 407.

Park on a fair evening, when Cromwell came up, saluting him with more than ordinary courtesy, and then they had some discourse together, which he fully narrates.[1] Most civil language and flattering speeches passed as preliminaries till the serious business came forth. Cromwell had a clear view of some higher title for himself, and his object was to hold up the Parliament to odium. Whitelocke suggested the difficulty of meddling with the Commons, because the General held his Commission from them, and they were subject neither to control nor appeal.

"What if a man should take upon him to be King?" said Cromwell. Whitelocke: "I think that remedy would be worse than the disease." But the General still harped upon sovereignty. No doubt it was uppermost in his thoughts. Still he seemed to be dissuaded from it by the strong arguments of the great officer before him, whom he called "his faithful friend," till the Lord Commissioner proposed a private treaty with the King of Scots. This was the last plan which could be tasteful to Cromwell; so, after many thanks, he broke off the conference, though with much courtesy.[2]

This meeting, nevertheless, in Whitelocke's opinion, was fatal to any further intimacy with the great Chief. At least it was so for a considerable time. When the General closed the discussion, he went into other com-

[1] "Memorials," vol. iii. p. 548.

[2] *Id.* p. 551.

pany, and so into Whitehall, seeming displeased, and soon succeeded in sending his Counsellor out of the way upon an honourable service.[1]

This was the famous embassy to Sweden. But before this considerable change, he had disposed of the Chancery business, being tired of it, as well as of the Council of State, and sought repose at Fawley Court.[2]

Early in the following year the disunion between himself and the future Protector grew stronger. His remonstrances against a dissolution of the Parliament gained him no favour, whilst the army, with their leaders, were resolved to put an end to this long continuing assembly.[3]

It is very unusual for the leader of a Circuit, much more for a Commissioner of the Great Seal, to leave his labours for a foreign embassy. Strange events, however, occur, upon occasion, in forensic life. We have seen a Prime Minister in the person of His Majesty's Attorney-General.[4]

The Chancellorship of the Duchy of Lancaster has been a more common promotion among lawyers. But it was not within the reach of probabilities that such

[1] "Memorials," vol. iii. p. 551. Dr. Lingard asks, "Were the minutes of this conversation committed to paper immediately, or after the Restoration? The credit due to them depends on this circumstance;" "History of England," vol. x. p. 691, 4th Ed. A writer in "Notes and Queries" declares it to have been a genuine report, made soon after the event."—2, vol. xii. p. 395.

[2] "Memorials," vol. iii. p. 551.

[3] *Id.* p. 552.—Burton's *Diary*, vol. ii. p. 462, n.

[4] Spencer Perceval.

a man as Whitelocke should be a temporary exile in Sweden, notwithstanding the honourable nature of the employment. Doubtless, Cromwell wanted him out of the way for awhile. The great General was rapidly becoming all-powerful,[1] and was resolved to stamp out jealousy amongst the civilians, whilst he rallied round him the army who were at his devotion. But Whitelocke was too able a courtier, and too shrewd a reasoner, to be otherwise than a formidable opponent to unlimited ambition.

Therefore, in September, 1653, on a Sunday, the messenger of the Council brought him a letter from Cromwell, apprising him of his nomination as Ambassador to Sweden, with a salary of £1,000 a year.[2]

The world has always been the same. The Ambassador had been left out of what was termed "The Little Parliament," which met July, 5, 1653.[3] And a vote had actually passed for taking away the Chancery. So that a large number of his frequent visiters deserted him under these dark clouds. But now much company came to visit him. He quaintly remarks, "because some of them thought I might come in favour again."[4]

"Plures amicos re secundâ compara.
Paucos amicos rebus adversis proba."

---

[1] Clarendon's "History of the Rebellion," vol. xiv. p. 2.

[2] "Memorials," vol. iv. p. 564. See Burton's "Diary," vol. i. pp. xii. xiii.

[3] Willis's "Not. Parl.," vol. iii. p. 255.

[4] "Memorials," vol. iv. p. 564. Actually his "dear friends" and "frequent visitors" again estranged themselves from him upon his final ejection from the Great Seal.—"Memoirs," p. 406.

And he disappointed his enemies and lukewarm friends still further. He continued Lord Commissioner of the Great Seal. Early in October he received his Commission under the Great Seal, his letters credential and his instructions.[1]

Whitelocke seems to have been created for gifts. In this very year (1653) he must have been at Saffron Walden. In the Corporation books there is an entry of £1 9s. for sack and oysters presented to my Lord Whitelocke, and £1 17s. for 1lb. of *saffron*, presented to my lady; and, for making clean the *slade* at my Lord's request, 1s.[2]

There were no disputes to heal, this visit to Sweden was one partly of ceremony, partly of business. The history of the cause of this embassy may be summed up in few words. The Commonwealth of England sent their representative to renew and preserve inviolably the amity and correspondence between the two nations, and to desire a more strict alliance and union than ever hitherto had been.[3] And the material matter was to obtain for England a free trade through Denmark and Holland.[4] But the appointments of the journey, and the gallant retinue were magnificent.[5]

[1] Burton's "Diary," vol. i. p. xiii.

[2] "Audley End and Saffron Walden," by Lord Braybrooke, London, 1836, p. 265, in extracts from the oldest book of accounts in the possession of the Corporation of Walden, called "Liber Fraternitatis, Sanctæ Trinitatis de Walden," p. 260. Slade means green sward.

[3] "Journal of the Swedish Embassy," vol. i. p. 256.

[4] *Id.* vol. i. p. 90.

[5] Wood's "Athenæ," by Bliss, vol. iii. p. 1,043.

A very handsome present was sent to the Ambassador by Mr. Bushill, who had been a servant of Lord Bacon, with a civil letter. It was a curious rich cabinet of green velvet with silver lace; in it were two dozen of quart glasses of the most rare and best distilled spirits of hot waters, after the direction of his Lord, and every glass had its screws, and cover of Welsh silver, chiefly found out by this ingenious person.[1] He had likewise his own physician, Daniel Whistler, of Elrington, in Oxfordshire.[2] At last, after some delay, he was suddenly ordered to enter upon his duties at the end of October.[3]

We have drawn so largely upon the "Memorials" by reason of its being considered (in spite of Warburton) the best history of the times,[4] as to compel us to refrain from noticing more of his "Swedish embassy" than is absolutely expedient.[5]

There were some conversations with Cromwell before he could be persuaded. His wife (for he was now married again) was very near her confinement, and she seriously opposed his venturesome journey, for two previous envoys had been murdered. Both

[1] "Journal of the Embassy," vol. i. p. 66. He presented it to the Queen at the end of the Embassy; *Id.* n.; cited in *History of Salop*, vol. i. p. 425.

[2] "Embassy," vol. i. p. 58.—Wood's *Athenæ*, by Bliss, vol. iv. p. 133.

[3] "Memorials," vol. iv. p. 567. [4] *Ante.*

[5] The "Journal," however, is remarkable, and well worthy of attention. It was first published by Dr. Morton, Librarian of the British Museum, and a new edition by Henry Reeve, Esq., appeared in 1855. The motto is,—"A wicked messenger falleth into mischief, but a faithful ambassador is health."—Prov. xiii. 17.

these persons had taken an active part in the judgment of Charles I., which Whitelocke had not.[1] At last, after another long interview, Cromwell "went away well pleased," and it only remained for the time of his sailing to be ordered.[2]

On the 6th of November he left England, and arrived at Gottenburgh on the 20th;[3] although he was not a bold sailor, for he promised a bottle of sack to the mariner who should first descry land.[4] His wife, although averse to the voyage, had, nevertheless, provided her husband with provisions of wine, beer, meal, baked meats, butter, cheese, fruits and sweetmeats, and household stuff hard to be met with in Sweden.[5] The Queen had now gone from Stockholm to Upsal, where she received the Ambassador with extraordinary respect.[6] Here, however, he ran a hazard of being at once unpopular. Being a Presbyterian, he had a religious objection to drink healths. So that, when the Master of the Ceremonies proposed the health of Cromwell, the Ambassador decidedly objected. Upon this, there was some heat and discontent. But the son and the chaplain having refused to drink the health, that great potentate (greater, probably, than his mistress) in great scorn asked: "Why not drink a

[1] "Swedish Embassy," vol. i. p. 19, n.

[2] See the "Embassy" as to the conversations, &c., vol. i., *passim*; and "Memoirs," p. 309.

[3] "Memorials," vol. iv. pp. 568, 569.

[4] "Embassy," vol. i. p. 133.

[5] *Id.* p. 79.

[6] "Memorials," vol. iv. p. 580.

health?" He could not sufficiently wonder, to see one refuse to pledge the health of his own General. And the Master added: "They might observe their country fashions when they were at home, but now should observe the customs of the country where they were."[1] There was absolutely a dispute and a silent discontent during the rest of supper time.[2]

The Swedish authorities, however, were anxious to know what might be the issue of the treaty between England and the Dutch before they concluded with the Ambassador, and much conference was had between him and the Chancellor Oxenstiern.[3] And not without reason; for one of the ships which attended him, a stout privateer, had stepped out of her course, and had taken two Dutch vessels, Whitelocke refusing to interfere.[4]

Just before Christmas, 1653, the introductory audience of the Queen (Christina) took place at Upsal. Whitelocke's first speech in French, was merely a preliminary. The Queen's answer was highly gracious. She spoke in Swedish, and intimated her regret that she could not receive him at Stockholm.[5] A few days afterwards another long conversation took place, during which the Ambassador satisfied the Queen's great curiosity concerning the late political events. Whitelocke was lame, and did not like the

[1] "Embassy," vol. i. p. 225.
[2] *Ibid.*
[3] "Memorials," vol. iv. p. 583.
[4] "Embassy," vol. i. p. 167.
[5] "Embassy," vol. i. pp. 237, 238.

constant walking up and down the room, but did not feel the pain of it till afterwards.[1] Nothing however passed at this interview respecting the Commercial Treaty. Nevertheless, before the end of the year, the opening of the Sound was fairly brought before Her Majesty for discussion. The envoy protested the power of the English, having to defy the Danes and Dutch, in conjunction with the Swedish Admiral.[2] And the Queen seemed favourably disposed, but broke off into quite another discourse. "Have you not heard in England, that I was to marry the King of Scots?"[3] she said. Whitelocke admitted this. "I confess that letters have passed between us," rejoined Christina; "but of this I will assure you, that I will not marry that King." And she then added, that the King of Scots had sent a letter to her cousin, the Prince Palatine, with the Order of the Garter, but the messenger had the wit to bring the letter to her, upon which she threw it into the fire, and would not suffer her cousin to have the George.[4]

The next day, there was another talk, and Her Majesty showed her strict intimacy with the principle, *meum* and *tuum*. As they were conversing, "What huge dog is this?" said the Queen. "It is an English mastiff, which I brought with me, and it seems is broke loose, and followed me even to this place. Your Majesty may stroke him." "I have heard of the

[1] "Embassy," vol. i. p. 245.
[2] *Id.* p. 256.
[3] Charles the Second.
[4] "Embassy," vol. i. p. 261.

fierceness of these dogs; this is very gentle. Is it your dog? Some of my people told me that Mr. Peters sent it for a present to the Queen. That Mr. Peters sent me a letter." "He is a great admirer of your Majesty; but to presume to send a letter or a dog for a present to a Queen, I thought above him, and not fit to be offered to your Majesty." "I have many letters from private persons." *His letter and the dog do belong to me, and are my goods*, and *I will have them.*"

And then Whitelocke said, that there was a great country cheese from the same person, of his making. "I do kindly accept them from him," said Queen Christina. "*See that you send my goods to me.*"[1]

The next conversation was in the beginning of January, 1654.

"How many wives have you had?" said the Queen. "I have had three wives." "Have you had children by all of them?" "Yes; by every one of them." "*Pardieu! vous êtes incorrigible.*" "Madam, I have been a true servant to your sex."[2]

Then the business of the Sound came in again, and the Chancellor Oxenstiern being sent for, the diplomatist forbore any further remark.[3] Presbyterians are no friends to balls, and when the Ambassador was invited on a Sunday, he excused himself. But a second summons coming on another day, he thought he should be slighting Her Majesty if he again

[1] "Embassy," vol. i. p. 268. [2] *Id.* p. 286. [3] *Id.* p. 290.

declined.[1] So he became a witness of the grand ceremonial, and sat next to Royalty. Captain Whitelocke was taken forth by Lady Jane Ruthven, and although the Commissioner did not dance, the Queen, who danced with more life and spirit than the rest, came and talked with him repeatedly.[2]

In very few days after this, the Chancellor arrived, and the question then arose, who should pay the first visit. The Envoy refused. The Queen expostulated. But the former averred that he represented England there, and that the Chancellor was a subject in his own country. Queen Christina, finding him inflexible, commended his conduct, and promised that the Chancellor should be the first visiter.[3] Upon this, the old statesman of seventy-one came to the Ambassador's house. After some compliments, the business was partly opened, and an intimation was given that the Queen in a day or two would go into the country for a short time.[4] However, she soon sent for Whitelocke again; and, as Cromwell was known to have dissolved the Parliament, and to have assumed the title of Pro-

[1] "Embassy," vol. i. p. 292. [2] *Id.* p. 293.

[3] *Id.* vol. i. p. 298. On one of these visits, the Chancellor made the speech to the Ambassador which William Penn relates as he was told by Sir Bulstrode. "Well, my Lord," taking his leave: "You are young to me, and learned, and an able servant to your Commonwealth, and in great credit; but let me tell you, time will come you will seek a retreat too; and, as I do assure you, I have found more comfort in it than in all my greatness, so I recommend to you, in order to it, the Holy Scriptures without you, and the Spirit of God within you, which will entertain you with solid considerations, and bring you everlasting felicity."—Introduction to the "Memorials," p. v.

[4] "Embassy," vol. i. p. 305.

tector before the official letters had arrived, she anticipated by her expressions of friendliness the dispatches from the late General, who had accomplished a task so daring.[1] And at the next interview, she discovered much shrewdness. "Why," said she, "is the title Protector, when the power is kingly?" And again, referring to the Marshal of Sweden, who, Whitelocke observed, was not permitted to keep that title, she answered: "He was afterwards King, and that will be next for your Protector."[2]

Several efforts were made to assassinate the Envoy. His servants also were assaulted and annoyed. But, on one night, an attack was made at his door by men with naked swords, which caused Whitelocke to act on the defensive. He would not permit a sally, but, should the enemies break the house, none should be spared, and he would head his party. However, the assailants departed.[3]

In March, 1654, the treaty was in danger. For, the Ambassador having mentioned at an audience that his business was brought to a conclusion, the Queen remarked: "I hope to your liking." Whitelocke: "Pardon me, Madam, if I say, it is not at all to my liking."[4] "And thus was March passed over, full of trouble, and nothing effected in his business."[5] However, before the close of the next month, all difficulties

[1] "Embassy," vol. i. p. 314.
[2] *Id.* p. 317.
[3] *Id.* p. 437.
[4] *Id.* vol. ii. p. 55.
[5] *Id.* vol. ii. p. 78.

were smoothed, and as the Queen was about to abdicate, being resolved never to marry, the Prince Palatine, her successor, gave his sanction to the treaty.[1]

On the 1st of May, the Ambassador kept it after the English fashion, and Her Majesty was pleased to come to a cold collation, consisting of all the delicacies of Sweden, but dressed according to English cookery, with potted venison, sack and claret, so brought from England.[2]

His last audience was now at hand. But, some days previously, the Master of the Ceremonies presented a handsome jewel to him from the Queen. It was a case of gold, enamelled, having in the midst a picture of Her Majesty, set round with twelve large diamonds.[3]

A wedding was now at hand—the nuptials of Baron Horne and the Lady Sparre, and, upon this occasion, the Queen over-persuaded the grave Lord Commissioner, and made him dance with her. And the next day he was to see the assembling of the "Ricksdag," the Swedish Parliament. So that his audience of leave was postponed, from the 10th to the 12th of May. But to return for a moment to the ball.

The Queen took out Whitelocke to dance with her, upon which he begged to be excused.

The Queen: "I will try whether you can dance."

After the dance, Her Majesty exclaimed:—

"*Par Dieu!* these Hollanders are lying fellows. They said: 'That there was not a gentleman in the

[1] "Embassy," vol. ii. p. 168. [2] *Id.* p. 187. [3] *Id.* p. 200.

Parliament party, all mechanics;' so I thought to shame you if you could not dance, but I see that you are a gentleman, and have been bred a gentleman."[1] At length he took his leave with much ceremony, speaking in high compliment to the Swedish Sovereign, and receiving from her the most flattering acknowledgment of his judgment and management.[2]

Nevertheless, he had another friendly discourse with Christina, and an audience of the Prince before his departure,[3] which took place on the 20th of May.[4]

On the 1st of July he arrived at Whitehall.[5] There can be no hesitation in giving the Lord Commissioner credit for this most successful embassy. His good temper, ready wit, and resolution at a crisis, gave him the mastery. And except amongst some sour Cavaliers, who would have murdered him, his entrance into Sweden was marked by an excellent reception, for which his generosity well fitted him. With one instance of this kind, we will close the history of his Swedish diplomacy.

When he was at sea, on his voyage to Sweden, the

[1] "Embassy," vol. ii. p. 215.

[2] *Id.* p. 235.

[3] *Id.* pp. 244, 256.

[4] *Id.* p. 286. It seems that he was nearly poisoned at Hamburgh. A strange waiter gave him some small beer, after which he lay in pain for thirteen hours, and was, with difficulty, restored by his physician, Dr. Whistler; "Memoirs," p. 389. He received some hospitality from Lord Douglas in Sweden. Lord Douglas urged him to ask of Cromwell the lives of Lord Lauderdale and his brother Laundie. They were kinsmen to Lord Douglas, and the King of Sweden joined in the intercession. Their lives were spared. —"Memoirs," p. 404.

[5] "Embassy," vol. ii. p. 430.

English being then at war with the Dutch, his Captain fell in with some of their skippers. Many escaped, but one was taken, and the Lieutenant brought the Master into the Ambassador's cabin. He relates in his book the conversation which took place. After compelling the skipper to admit the superiority of the English ships, he relaxed in his severe examination, and the skipper having said: "I have but few goods left me to carry, God help me!" "Well, skipper," returned the Ambassador: "thou seemest to be an honest man, and to love the English, and thou sayest thou hast a wife and seven children; therefore, I shall do more for thee than thou expectest: thou shalt have thy ship again.[1]

Skipper: "What did you say, sir? Shall I have my ship again?"

Whitelocke: "Yes, skipper, thou shalt have thy ship again. Captain Foster, give order that the ship be restored to this poor man."

Skipper: "Sir, your men took a world of goods when they boarded me; if I might have them too."

Whitelocke: "Skipper, thou shalt have them too. Captain, I pray that your men restore both ship and goods."

Skipper: "Shall I have my ship and all my goods again?

Whitelocke: "I have passed my word."

[1] "Swedish Embassy," vol. i. p. 118—120.

The skipper broke forth into blessings upon the Ambassador. "What! have all again, when I expected not a pennyworth of them!"

The poor skipper took Whitelocke by the hand and shook it heartily, often praying to God, to bless him and his. "Whitelocke, calling for wine, drank to the poor man to comfort him, and desired him to tell when he went home that the English Ambassador did not come to pillage the Dutch, but hoped that there might be a good peace between the two Commonwealths.[1]

Gratitude laid strong hold on the poor skipper. He sent a Holland cheese and a great bottle of brandy wine as presents, but Whitelocke sent them back with his hearty thanks.[2] And thus ended this singular capture and release. He was, upon another occasion in 1654, ready to interest himself on the side of mercy, and, at the instance of the famous Elias Ashmole, saved Captain Wharton from the clutches of Serjeant Bradshaw, who intended to hang the Captain.[3]

Cromwell was now Lord Protector, the undisputed master of the realm, and through his resolution and ability, the dread of foreign foes. Charles, the King of Scots, was an exile. All efforts to disturb the power of the army had been hopelessly crushed, so that the Protector had leisure to turn his mind towards the increase of commercial prosperity for England. Peace

[1] "Swedish Embassy," *Ibid.*

[2] *Id.* p. 120.

[3] Wood's "Athenæ," by Bliss, vol. iv. p. 355.

was likewise proclaimed in Holland, and a day of thanksgiving appointed.[1]

The grandeur of the inauguration has been celebrated by Clarendon. A sumptuous throne, with a pavilion, was erected in Westminster Hall. Cromwell was conducted with great ceremony to the chair of state. "He was there," he said, "without any vote from the nobility," a declaration which the Speaker echoed, and Sir Thomas Widdrington, with the Earl of Warwick and Whitelocke, then invested him with a rich purple robe, lined with ermines. Then he was presented with a Bible of the largest edition, richly bound. The Speaker then girded a sword about him in the name of all the people, and lastly placed in his hand a sceptre of gold.[2]

Whitelocke was now arrived at home from Sweden. He quickly gave an account to the Protector and his Council of his success, and he has handed down to us the speech he made upon the occasion.[3] He also gave a narrative of his embassy to the House of Commons, in a long address.[4] When he ended, the House "gave a general applause, and divers of them stood up and

[1] "Memorials," vol. iv. p. 589.

[2] "History of the Rebellion," vol. xv. p. 47. Whitelocke himself gives a graphic description:—"In the upper end of his coach sat the Lord Protector in his robes, on the other side sat the Earl of Warwick. In one boot sat his son Richard, and I with a drawn sword in my hand; and in the other boot sat the Viscount Lisle and General Mountague, with swords drawn in their hands."—"Memorials," vol. iv. p. 662.

[3] "Memorials," vol. iv. p. 593. See also the conversation between him and Cromwell.—"Memoirs," p. 397.

[4] "Memorials," vol. iv. p. 601.

moved, that I might have the public thanks of the House, for the good service done.[1] This honour was cheerfully accorded, and the Speaker solemnly performed the duty. At the same time, an order was made to pay Whitelocke £2,000 out of the public treasury, for expenses and arrears.[2] This was merely a payment of what the Ambassador had expended, but the honour and dignity satisfied him.

To the Parliament then sitting, he was returned a burgess for Bedford, and a knight for Bucks, and a burgess for Oxford city. Campbell tells us he elected to sit for Bucks.[3] His son James was also elected for Oxfordshire.[4] The place of *Custos Rotulorum* for Bedfordshire had also been kept open for his acceptance; and he was appointed First Commissioner of the Great Seal. So far, indeed, was Cromwell from entertaining any feelings of resentment towards him, as to name him, although abroad, a Lord Commissioner of the Great Seal with Lisle and Sir Thomas Widdrington;[5] so that the attack upon the Chancery had been abandoned.

His title was now Sir Bulstrode. Sometimes he was designated as Lord Bulstrode. But this dignity belonged to him as one of Cromwell's peers. He obeyed the summons, and sat in the House which he had

[1] "Memorials," vol. iv. p. 604. [2] *Ibid.*
[3] "Chancellors," vol. iii. p. 57.
[4] "Memorials," vol. iv. p. 597; Willis's "Not. Parl." p. 264.
[5] "Memorials," vol. iv. p. 584.

helped to overthrow.[1] The rank of Sir Bulstrode followed, upon his having been created by Queen Christine a Knight of the Order of Amaranta.[2] Preferments still awaited him. In August, after his return, he became one of the Commissioners of the Treasury.[3] In the same year he filled the distinguished post, sacred to great lawyers, of Recorder of Bristol. This place, very frequently the stepping-stone to a seat on the Bench at Westminster, is, London excepted, the most lucrative of those appointments, and is in the gift of the Crown. He visited Bristol as Judge in September, where he was highly feasted and entertained. He was met a mile from the town by 500 horse, conducted into the city, and ceremoniously received by the Mayor and Aldermen.[4]

In October he received a handsome letter from the Bodleian librarian, acknowledging the receipt of two Swedish medals.[5]

An important change now came over the fortunes of Sir Bulstrode. Cromwell was absolute in enforcing his ideas. No one could gainsay his will. He had been the greatest General, he now aspired to be the supreme Legislator. In April, 1655, letters were sent to the Lords Commissioners, to require their attendance at the Council. The following ordinance was propounded to them:—

[1] Wood's "Athenæ," by Bliss, vol. iii. p. 1044.
[2] *Id.* p. 1043.
[3] *Id.* p. 1044.
[4] "Memorials," vol. iv. p. 599.
[5] *Id.* p. 607.

"*Monday*, 23 *April*, 1655.

"At the Council at Whitehall.

"Ordered, by His Highness the Lord Protector and the Council, that the Lords Commissioners of the Great Seal do proceed according to the ordinance of His Highness and the Council, entituled, 'An ordinance for the better regulating and limiting the jurisdiction of the High Court of Chancery.'"[1]

This ordinance was seriously canvassed by the Lords Commissioners. Lisle, according to Campbell, "An exceedingly illiterate person, as well as very subservient," acceded, but Whitelocke and Widdrington (and Lenthal, the Master of the Rolls, joined them,) pronounced many parts as "quite impracticable,"[1] and they declared they should expose themselves to derision, if they attempted to put it in execution.[2] So they went on for a whole term, refusing to observe the ordinance. The Protector was in earnest. Baron Thorp and Judge Newdegate did not obey all his commands, and they were "put out."[3]

On the 1st of May another order was sent from the Council concerning attorneys, in order the better to coerce the Commissioners. The Master of the Rolls,

[1] "Memorials," vol. iv. p. 621.

[2] "Chancellors," vol. iii. p. 58; "Memorials," vol. iv. pp. 621—625, where the ordinance and the objections to it will be found.

[3] "Memorials," vol. iv. p. 625.

however, was for a while firm, but afterwards "his profit and fear to offend, over-swayed all other considerations."[1] On the same day, Whitelocke, Widdrington and Lenthal sent a deprecatory letter to the Protector, alleging their regret that they could not freely proceed upon the ordinance. This letter was not delivered till some days after the date, but, on the next day, an order came from the Protector to reduce the Masters in Chancery to six, and the Commissioners accordingly swore the six named. Upon which the ordinary business went on as usual in the former course.[2]

Cromwell, notwithstanding, would not disturb us till the term was over, and then he was quick with "us for our disobedience."

The Commissioner was urged to recant and to withdraw the letter, but he was inexorable. Upon which the following order was brought to him, being ancient.

"*To the Right Honourable, &c.*

"My Lords,

"I am commanded to signify unto your Lordship his Highness's and the Council's pleasure, that your Lordship do attend his Highness with the Great Seal, at six of the clock this evening.

"I am, &c.,

"HENRY SCOBEL.

"Whitehall, *June* 6, 1655."

[1] "Memorials," vol. iv. p. 625. [2] *Ibid.*

They attended accordingly, and the Lord Protector informed them of his intention to place the Seal in the hands of others. Whitelocke and Widdrington then a little enlarged upon their scruples. But they met with a strong hand. Children, when they have got a forbidden toy in their hands, are told to "put it down." So the Protector "spake to us to lay down the Seal, which we did, and then we were desired to withdraw."[1] Various opinions were offered upon this resolution of Whitelocke and Widdrington. But Lenthal, who had said that, rather than execute the ordinance, he would be hanged at the Roll's Gate, "wheeled about," and was as forward as any one "to act."[2] Lenthal was not a man of much note. He was elected Speaker, but Clarendon declares him unequal to that high office. Some of his speeches and letters are extant. Of this Master of the Rolls it could not be said: "*Vestigia nulla retrorsum.*" Nor, of such a man: "*Quo mecunque rapit tempestas deferor hospes.*" But rather in Juvenal's vein:—

> "Si Fortuna volet, fies de Rhetore Consul,
> Si volet hæc eadem, fies de Consule Rhetor."[3]

The Commissioners, it is observable, escaped the fate of Maynard, who thwarted Cromwell. They were not sent to the Tower.

Whitelocke was now at the Bar again. His "loaf

[1] "Memorials," vol. iv. p. 626.

[2] *Ibid.*

[3] "Cat in pan,
With any man."

friends," as he calls them, deserted him. They would neither own nor know him. So he seriously betook himself to his profession, and got into business; such was his acknowledged ability as a counsel.[1] However, he says that the Protector considered he had behaved harshly, and in the next month made Whitelocke and Widdrington Commissioners of the Treasury, with a salary of £1,000 per annum.[2] The next employment which fell to Sir Bulstrode was to receive the Swedish Ambassador. This welcome was given with great pomp and ceremonial.[4] And he was still on terms of strict political intimacy with the Protector, who took him into his secret counsels as to foreign affairs, and bore patiently his advice to have frequent Parliaments.[5] In the January following,[6] he was again urged to go with Sir Christopher Pack as an Ambassador Extraordinary to Sweden, but he excused himself. The

[1] "Memorials," vol. iv. p. 627.—"Memoirs," p. 406. [2] *Ibid.*

[3] The following extract from a pamphlet, entitled, "A Second Narrative of the late Parliament," must be regarded with suspicion. "When some alteration and pretended reformation was made in the Chancery, he stood off from being any longer a Commissioner of the Seal, and became one of the Supervisors of the Treasury. He is one who is guided more by policy than by conscience, and, on that account, the more fit for the Protector's service There is no question to be made of his worth and merit, to be taken out of the House, [of Commons] to have a negative voice in the other House [the new House of Peers] over the people there, though he helped to put it down when in the King and Lords." ["Harl. Misc." vol. iv. p. 480.] [This pamphlet was printed in 1658.] It was reprinted by one J. Morgan, in "Phœnix Britannia," 1732, p. 138.—Wood's *Athen.* by Bliss, vol. iii. p. 1042, citing Cole.

[4] "Memorials," vol. iv. pp. 627, 628.—See the "Memoirs," pp. 407—414.

[5] "Memorials," vol. iv. p. 629.—"Memoirs," p. 421. [6] 1656.

Lord Protector then urged him to accept the service, but he so wrought upon the great Republican, as to refer the matter to the Council. Nevertheless, he and others were appointed to treat with the Swedish Ambassador,[1] who gave a magnificent entertainment in honour of the birthday of the young Prince of Sweden. The Swedish Ambassador was very courteous to Sir Bulstrode, but the Dutch and others were reserved to him, and he as much to them.[2] After much debate, the treaty sought for was signed and sealed without the second embassy, and the Envoy from Sweden left with a present from the Protector of diamonds valued at £1,000, and a quantity of white cloth.[3]

In August of this year,[4] he was again returned for Bucks, his friends mustering one thousand horse and three thousand in the field.[5] In September he received a letter from Sir William Davenant, intimating how desirous he was for Sir Bulstrode to attend his opera. Sir William spoke of the great lawyer's ancient relation to the Muses as a temptation for him to give a little entertainment to poetry.[6] In this year, likewise, he made his well-known speech against punishing James Nayler with death, for blasphemy.[7]

[1] "Memorials," vol. iv. p. 632. [2] *Id.* p. 634.
[3] *Id.* p. 650. See more as to Sweden, *id.* p. 656.
[4] 1656. [5] "Memorials," vol. iv. p. 650.
[6] *Ibid.*
[7] Neither from the law of nature, nor 2, from the law of God, nor 3, from the law of the land; "State Trials," vol. v. p. 821. But the division

In the early part of 1657, the Speaker being ill, the Lord Commissioner (for he still seems to have held the table) was voted into the chair, and the profits due to the Speaker were likewise ordered.[1] A curious incident now occurred, illustrative of the singular meanness which often revealed itself in those times. Sir Thomas Widdrington, his old brother Commissioner, was Speaker, and he had heard of the favour which the House had bestowed upon Whitelocke. Now, it so happened, that several private bills were about to pass, particularly for the naturalization of many strangers. Every one of these was to pay £5 for his fee. Upon this Widdrington, to the hazard of his life, came down weak and feeble, and took his place, in order to get those sums which, had he not come, would have gone to his temporary assistant.[2] The friends of Sir Bulstrode were displeased at this treatment, and upon their motion, the thanks of the House were voted to the Lord Whitelocke, for his great and faithful service.[3] Nor was this all. Some arrears were due to the late Ambassador, and a resolution was passed to pay the sum of £500, for such his excess of expenditure. Moreover, as we have seen,[4] a gra-

was narrow. Noes, 96; yeas, 82.—*Id.* p. 817. Very severe punishments were, however, ordained and carried out against him, which made a very insignificant zealot or madman a martyr. Upon the return of the Rump he obtained his liberty, but died without any signs of repentance.—*Id.* pp. 817—820.

[1] "Memorials," vol. iv. p. 654.—Burton's *Diary*, vol. i. pp. 369, 370.

[2] *Id.* p. 655.—Burton's "Diary," vol. i. p. 376, n.

[3] "Memorials," vol. iv. p. 655.—Burton, p. 375.

[4] *Ante.*

tuity of £2,000 was likewise made a charge upon the Treasury, for his services in the Embassy, accompanied by the thanks of the House, which were conveyed to him by the Speaker, standing in his place.[1] Not long after, he tells us, he got this money, adding, however, that the Protector and some "ill-willers" were not pleased with this extraordinary favour of the Parliament. Yet, on the day of thanksgiving for the deliverance of his Highness from the hand of Syndercomb, Whitelocke, attending with the Speaker and other members, was nobly entertained by Cromwell at Whitehall.[2] Yet, notwithstanding these payments and gratuities, he seems about this date (July 21, 1657) to have conveyed his household stuff, pictures, &c., to four friends in trust to pay his debts, and some annuities to his children.[3]

Several matters of business now occupied his attention, to which we merely refer in the note. In November, 1658, he was appointed a Commissioner of the Board of Trade.[4] In April, 1657, the serious question of Monarchy came before the House, under the plea of settling the nation; and, a Committee being appointed, the Commissioner was chosen Chairman. He had an audience of the Protector after this, and urged the acceptance of the kingly title. The Protector gave his reasons against it;[5] but it is matter

[1] "Memorials," vol. iv. p. 655.—Burton, vol i. p. 375.
[2] "Memorials," as above. [3] *Ibid.*
[4] "Memoirs," p. 416.
[5] "Memorials," vol. iv. p. 655.

of history that, had he dared, he would certainly have been King of England. He dreaded the army;[1] he was superstitious rather than religious, apprehensive, and sensibly drawing to his end.

The writer of the "Memoirs" is right when he says that the antipathy of Cromwell's officers could not have been the real barrier. He could not have dreaded a revolt from Harrison or Lambert. Great despondency had seized him.[2] He must have been conscious of his approaching end. There was a mysterious Providence upon him which shut down the ambitious spirit, and forbade the exercise of kingly energies. But he, nevertheless, played with the proposal. He would have the Committee together for three or four hours, and, laying aside his greatness, would be exceedingly familiar. Each was to make his own fancy verses, and the Protector joined. He called for tobacco, pipes, and candle, and now and then took tobacco, after which he would suddenly fall into very serious counsel.[3] The debate ended by his being continued Lord Protector, with defined bounds and limits to the title.[4] Whitelocke was still Commissioner of the Treasury. In October the Provost of Eton died. The Commissioner would gladly have succeeded, and made suit to the Protector.[5]

[1] "Memorials," vol. iv. p. 656.
[2] "Memoirs," p. 426.
[3] "Memorials," as above.
[4] *Id.* p. 657.
[5] The right to appoint to this Provostship has ever been claimed by the Crown, and exercised in modern times in opposition to the Fellows.

But Cromwell had promised it to another. "My service was past," writes the author of the "Memorials," rather bitterly, "and, therefore, no need of a recompense."[1] This refusal, doubtless, evinced a coolness between the Protector and his wise counsellors. For the latter was Constable of Windsor Castle, and had a desire for the appointment to Eton.[2] Notwithstanding all these suspicious allusions, it is remarkable that the wary Chief would do nothing of moment without the advice of the Commissioner.[3]

In December we have a further clue to a title of nobility for Whitelocke. For sixty persons were summoned by a writ under the Great Seal to sit in the higher House of Parliment, and, amongst them, "the Lord Whitelocke."[4] He was created a Viscount, but hardly thought it convenient.[5] Indeed, notwithstanding these sixty writs of summons, Cromwell created but three peerages.[6] Yet, in spite of this new rank, he became dissatisfied with the politics of the day. The Protector had slighted his advice by dissolving the Parliament, and, to use his phrase, "he was much retired.[7] He again confronted his Master.

[1] "Memorials," vol. iv. p. 665.

[2] "Annals of Windsor," vol. ii. p. 280; and see note (1).

[3] "Memorials," 1657, *passim*.

[4] *Id.* vol. iv. p. 666.—"Memoirs," p. 423.

[5] "Memorials," vol. iv. p. 674.

[6] "Whitelocke seems never to have made any use of his Patent, or rather Thurloe, in whose hands it was to be passed, did not think fit to pass it."—"Notes and Queries," August 20, 1859.

[7] "Memorials," vol. iv. p. 673.

It was his wish that the conspirators then in prison should be tried by the common law, but the Protector insisted upon a High Court of Justice, upon which Whitelocke refused to sit as Judge there.[1] And some of the accused were actually tried at the Upper Bench Bar, according to his advice.[2] As a Member of the Upper House he maintained his right to appoint a Chaplain, and Thomas Cockaine is named as holding this rank.[3]

The death of Cromwell was now imminent. On the 26th of August, 1658, he sent for Lord Whitelocke, and was entertained at dinner, and had much private converse about public matters. But, on the 3rd of September, the Great Ruler of the Commonwealth died, as it was thought, of ague,[4] and his son Richard, who respected Sir Bulstrode, succeeded. The fortunes of the latter were still in the ascendant. His son James was returned for Aylesbury, and another son, William, for Reading and Westloe. Early in January he was sent for to Whitehall, and the Great Seal was delivered to Fiennes, Lisle, and himself, as Lord Keepers.[5] He was also soon appointed one of the "Committee of Safety."[6]

Richard's fall was quickly foreseen. He is said to have been betrayed by his near relations and his

[1] "Memorials," vol. iv. p. 673.
[2] *Ibid.* p. 674.
[3] Wood's "Athenæ," by Bliss, vol. iii. p. 470.
[4] "Memorials," vol. iv. p. 674.
[5] *Id.* p. 676. He doing the greatest share of the work.—Clarendon's *Rebellion*, vol. xvi. p. 91.
[6] Clarendon, as above.

council.[1] Confusion was near. There was an act for a new Great Seal, "so our office ceased," says the writer.[2]

Whitelocke goes on to complain of the insinuations made to his prejudice—that he was in correspondence with the royal party beyond sea; but he defied the attack, and acted in his office as Counsellor of State.[3]

At this time he refused to go to the Sound to mediate a peace between the kings of Denmark and of Sweden.[4]

He was now by no means unknown to Monk, who wanted to make him one of the Commissioners for Scotland, but he eluded the choice.[5] Nevertheless, he was named on the Committee of the Council of State to carry on the Government, and one of the twenty-three named by the General Council of officers to manage the public affairs.[6] This last post he was fain to decline; but he was told that Vane, Salwey, and others, designed to overthrow the magistracy, the ministry, and the law. The great officers counted upon his ability, and his friends earnestly urged him.

[1] "Memorials," iv. p. 677.

[2] *Id.* p. 678. It was determined that the Commissioners should not have seats in the House.—*Id.* p. 680.

[3] "Memorials," vol. iv. p. 679. Scot was the accuser, but, according to the "Memoirs," Cooper was guilty, Whitelocke innocent, p. 433.

[4] "Memoirs," p. 434. [5] "Memorials," vol. iv. p. 684.

[6] "Memorials," vol. iv. p. 685. The Committee of Safety. "By the side of Fairfax and Whitelocke sat Vane and Scot, the two former monarchists, the two latter levellers; contiguous with the arrogant and insolent Sidney, the subtle, crafty, and scheming Sir Anthony Astley Cooper;" "Memoirs," p. 432. See the letter to him.—*Id.* p. 437.

So, with a regard for the peace and rights of his country, he assented, and was received with all respect.[1]

The first act of this new Government was to make him Commissioner of the new Great Seal.[2]

He now opposed Monk, and showed himself faithful to the republic, impressing upon the city the necessity of hindering Monk from bringing in the King, and so commencing a new civil war.[3] And he went to Lambert, advising him to advance and attack Monk before he might be better reinforced, but his counsel was not taken.[4]

The next step was an attempt to treat with Monk, three Commissioners being chosen on either side.[5]

Once more, however, Whitelocke urged to fall upon Monk, but his policy was defeated, and the Commissioners on either side drifted into a new treaty, although the object of the General was to gain time.[6]

A quarrel now ensued as to the sealing of writs for a new Parliament, and some of the officers said they themselves would seal the writs, but Whitelocke threatened to resign, and prevailed.[7]

The Lord Keeper replied, that he was ready to

[1] "Memorials," vol. iv. p. 686.

[2] Campbell's "Chancellors," vol. iii. p. 75. The old one having been broken, and Lenthal appointed for eight days to hold the new Seal.—*Id.* p. 72.

[3] "Memorials," vol. iv. p. 686.

[4] *Id.* p. 688.

[5] *Ibid.*

[6] *Id.* p. 689.

[7] *Id.* p. 690.—Campbell's "Chancellors," vol. iii. p. 77.

deliver up the Seal to them, and that it was there ready, if they pleased to take it from him. A Colonel was very angry at this speech, and remonstrated against giving the Great Seal to a lawyer. "It ought," said he, "to be given to those who have adventured their lives for the service of the Commonwealth rather than to "such as skulk from dangers and covet fees."

Lord Keeper: "The gentleman who so much disparages lawyers would do well to call in mind the services performed by Ireton, Jones, Reynolds, and others of the profession during the war. As for myself, I have been exposed to such perils in the service of the State, particularly in my embassy to Sweden, as would have appalled this much-speaking Colonel."

General Fleetwood and others here interposed, and the Colonel was put to silence.[1]

The crisis was now approaching, and the incidents serious, and full of interest. Sir Bulstrode appeared as a chief actor in the scene, and once more strove to allay the distractions which were rising on all sides. Indeed, when Fleetwood was nominated to the chief command, Whitelocke was named one of ten, from the old Council of State, to carry on the Government.[2]

The militia of Buckinghamshire were called out, and he was, of course, in the Commission.[3] Here, however, his extraordinary caution and diplomacy

[1] Campbell's "Chancellors," vol. iii. p. 77.
[2] "Memoirs," p. 437.
[3] "Memorials," vol. iv. p. 690.

came in aid. His clear judgment bared Monk's designs, and, very naturally, when all were making their own fortune at the expense of the unfortunate Richard; he sounded Fleetwood, the General, in the most earnest manner, whether, as the King must apparently return as Sovereign, it would not be wiser and better that he should be the herald of the Monarch, and thus supplant Monk.[1] But the old lawyer offered his alternatives with calmness. He had an interview with Fleetwood. "Collect your forces," said Whitelocke; he thought it even then not too late. If they muster strong, attack the enemy (this had been his prudent counsel); if not, take possession of the Tower, send for the Mayor and Common Council, and declare for a free Parliament. This, he thought, the City would agree to, and would furnish money for his soldiers, so as to increase their numbers.[2]

"Fleetwood asked me," writes the Memorialist, "if I would go with him into the field, and to the Tower. I said I would." Then Fleetwood asked for the other proposal. It was, that he should immediately send a trusty person to Breda, offering the King the services of himself and his friends, upon such terms as the King would accept. Fleetwood inquired if Whitelocke would undertake the task? The answer was in the affirmative. And so decisive was the conversation, that the journey was to take place on that even-

[1] "Memorials," vol. iv. p. 691.—"Memoirs," p. 439.
[2] Whitelocke's "Memorials," vol. iv. p. 691.

ing, or on the following morning.[1] Considering the state of affairs and Fleetwood's position, Monk was in jeopardy. Going away, however, Vane, Desborough, and Berry met Sir Bulstrode, and Fleetwood asked him to stay a little. "I suspected," said he, "the issue of their consultation. Within a quarter of an hour Fleetwood came to me, and, in much passion, said to me, '*I cannot do it!* I cannot do it!' I desired his reasons why he could not do it? He answered, 'Those gentlemen have remembered me, and it is true that I am engaged not to do anything without my Lord Lambert's consent.' I replied, that Lambert was at too great a distance to have his consent to the business, which must be instantly acted. Fleetwood again said, 'I cannot do it without him.' Then I said, you will ruin yourself and your friends. He said, 'I cannot help it.' Then I told him I must take my leave, and we parted."[2]

Some of his friends then advised his going over to the King with the Great Seal, but he did not favour the overture.[3]

[1] "Whitelocke's "Memorials," vol. iv. p. 691.

[2] "Memorials," vol. iv. p. 691; "Memoirs," p. 442. This plain exposition rather shakes the opinion given in the "Memoirs," that Whitelocke had any dislike to the Restoration on account of a revelation made to him, that Henrietta Maria had entered into a solemn obligation with the Pope and her brother, the King of France, to educate her children as Roman Catholics, and to choose Roman Catholics only to be in attendance upon them.—"Memoirs," p. 20.

[3] "Memorials," vol. iv. p. 691. It came through his brother-in-law, Lord Willoughby, who gave him the idea of Monk's designs.—"Memoirs," p. 443.

Campbell observes, that Charles was so doubtful of Monk's intentions as to have ensured a cordial reception for Whitelocke.[1]

He was now alarmed for his own safety, not from fear of the Royalists, but of his own party. He had sealed writs for a new Parliament, which met in January, 1659; but had no seat for his county of Bucks, as formerly. This was the old Parliament, who were enraged against him for sitting on the Committee. Two of them threatened his life, and one, Scot, said, "that he should be hanged with the Great Seal round his neck." Knowing Scot's malice upon former elections, he deemed himself in danger.[2] Nevertheless, he complied with an order sent through the Speaker, requiring his attendance at the House—a step of hazard. When he went his old acquaintance were very reserved towards him.[3]

Whitelocke was now threatened on all sides, and retired into the country to the house of a friend, being apprehensive of the Tower.[4]

"Before my going out of town I had left order with my wife to carry the Great Seal to the Speaker, which she did, locked up in a desk, and gave the key

[1] Campbell's "Chancellors," vol. iii. p. 79. "Perhaps an arrangement might have been made providing guarantees for religion and liberty, which would have saved the nation the misgovernment of the two succeeding reigns, and saved the Stuart dynasty."—*Ibid.*

[2] "Memorials," vol. iv. p. 691.

[3] *Id.* p. 692.

[4] *Ibid.*

of it to him."[1] His wife also burnt many of his papers. The Seal was delivered to the Speaker, Lenthal,[2] and subsequently to Widdrington, Tyrrel, and Fountain, and never fell again into the hands of the ancient Commissioner. The Rump Parliament of 1659 broke the old Great Seal, and their new one resembled that of 1649; but it scarcely lasted more than one year.[3] Indeed, the prosperity of this great man now terminated. His relation was turned out by the Parliament from his office as Commissioner of Excise.[4]

Windsor Castle, of which he was Constable, was surrendered to the Parliament,[5] and Viscount Mordant was made Constable by Charles, upon his accession, Whitelocke having resigned with an allowance of 10s. a day.[6] He wrote a full account of the duties of the office to the new Constable, in a letter dated August 18, 1660,[7] in which he signs himself

"Your Lordshp's affecionate Bro.

"and humble Servt."[8]

[1] "Memorials," vol. iv. p. 692.—"Memoirs," p. 444.

[2] "Memorials," p. 693.

[3] Jeaffreson's "Lawyers," vol. i. p. 22. Mr. Jeaffreson says, that the ceremony of breaking the old Seal is called "damasking." It is tapped gently with a hammer, but, except during the time of the Commonwealth, it was not broken to pieces; *Ibid.* "Damask;" verb, "to variegate, to diversify," Johnson. See further as to "damasking."—Jeaffreson, pp. 23—26.

[4] "Memorials," vol. ii. p. 697.

[5] *Id.* p. 692.—"Annals of Windsor," vol. ii. p. 287.

[6] "Annals," p. 293.

[7] *Id.* p. 294.

[8] *Id.* p. 296.

Another letter from the Viscount produced a laborious essay concerning this office, and a letter subscribed

"My Lord,
"Yo^r Lp^s very faithful
"and humble Servant."[1]

"Temple, Sept. 10, 1660."

The King being, in effect, restored, the proposition to exempt Whitelocke from the twenty persons excepted out of the act of oblivion was rejected by a considerable majority. He had presented a humble petition on the 14th of June, 1660.[2]

We do not hear of his condition after the expulsion of his nephew, to which we have referred. Indeed, his "Memorials" end with the date of May 29, 1660. He was no longer either a candidate for honours or marked for preferment. He had shewn sincerity in his political career, and, with the exception of the proposal to go to Breda, which Fleetwood shrank from, he had been faithful to the Commonwealth. His acting on the Committee of Safety would account for the end of his active career. For he had not adopted the wary counsels of some of those around him. Although disapproving of the King's death, he was one of the four members sent to congratulate Cromwell on his return from Worcester, and he very

[1] "Annals of Windsor," vol. ii. p. 296.
[2] "Memoirs," p. 445.

soon accepted office from Cromwell. He did not care to confine himself to his profession, and, amidst occasional coldness and rejection of his opinions, the Protector continued to encourage and seek him to the close of his own life. He ceased to sit in the House after the Parliament of 1656, and his sons, Sir James (who was returned for Aylesbury in 1658, 1659), and William (Member for *Portpigham*, otherwise Westlooe),[1] had no place in the first Restoration Parliament.

Had we the same diary of Lord Whitelocke's retired years as he has bestowed upon us in his admirable "Memorials" of English affairs, we should, doubtless, possess a work of great interest. It is to be feared that such a domestic history was never written, or that it has not come down to us, or that it has been suppressed.

No personal evil befel him. He was not excepted from the Act of Indemnity. It is said, that he asked pardon of the King for "all that he transacted against him." But Charles reserved the Great Seal for another, and bade him "Go live quietly in the country, and take care of his wife and thirty-one children."[2] However, in a dedication of a legal work, the fruit of his

[1] Willis's "Not. Parl.," vol. iii. p. 286.

[2] Campbell's "Chancellors," vol. iii. p. 81. More probably thus: "Mr. Whitelocke, go into the country; do not trouble yourself any more about State affairs; and take care of your wife and your sixteen children."—Burn's "History of Henley (citing the "Swedish Embassy"), p. 247.

retirement,[1] he says that the royal clemency had bestowed upon him his small fortune, liberty, and life, and restored him to a wife and *sixteen* children.[2] This retirement was at Chilton Park, in Wiltshire, near Hungerford,[3] purchased by the means of his third wife, and once the property of his aunt, who lived and died there.[4] With regard to the "royal clemency," he sold one of his estates, and mortgaged Fawley Court, and brought the proceeds to His Majesty.[5] Charles was pacified, and gave him his coronation bible and prayer-book, desiring him, at the same time, to write a treatise on Parliaments "*for the King's especial use.*"[6] After living in quiet for fifteen years he died at Chilton Park on the 28th of January, 1676, according to Granger;[7] but this date is wrong, for he was buried on the 6th of August, 1675."[8]

Burn, in his history of "Henley," states that the grave was at Fawley, that Whitelocke built a place of sepulture there in the church, where a great many of the

[1] Probably the "Treatise of Parliaments."

[2] Campbell, vol. iii. p. 81, n.

[3] Wood, by Bliss, vol. iii. p. 1044.

[4] "Memoirs," p. 446.

[5] *Id.* p. 447. £90,000 were demanded, but the King was fain to be content with £50,000.—*Id.* p. 451. Burn doubts this, because of the acknowledgment of the royal clemency in the dedication above-mentioned in the text.

[6] *Ibid.* It was composed, and the MS. is in the British Museum. It was published in 1766. How it came into the possession of the Museum will be found in the "Memoirs," p. 451.

[7] Granger, by Noble, vol. iii. p. 69; and vol. iv. p. 64.

[8] "Memoirs," p. 464.—Burn's "Henley," p. 247, n. 69.

family have been interred.[1] But we incline to accept the record of a member of the family, who places his burial-place at Chilton, where he died.[2] And it is added, that the funeral was private, and that he lay in a vault (it is now supposed) beneath the parish church of Chilton.[3]

We shall see presently the settlement of his real estates.

He conveyed his personal effects, as jewels, household stuff, pictures, &c., to four of his friends in trust, to pay his debts, and a few annuities to his children; and, in 1675, near upon his death, he made this will.

"In the name of God, Amen. This is the last will and testament of me, Bulstrode Whitelocke, Knight, made the 17th day of May, in the year of our Lord God, 1675. I being then in good memory, for which I praise the Lord, and for all His mercies and deliverances vouchsafed to me, and I still desire to trust in Him, and to forget the hard usages of me, and the injustice to me, by some men. I assuredly hope, after my travels ended in the earthly pilgrimage, to enjoy enternal rest and happiness in the life to come, through Jesus Christ, my Redeemer." [Then he desires to be buried at Fawley, without pomp or expense, if it may be without inconvenience to his wife, Dame Mary,

[1] Burn's "Henley," p. 247, n. 69. "For the monuments, inscriptions, and arms," he cites Langley's "Desborough Hundred."

[2] "Memoirs," p. 464. [3] *Ibid.*

whom he appoints executrix. He then bequeaths a few rings, and concludes].[1]

The will was proved 10th November, 1676.[2] 1675, Sir Bulstrode Whitelocke, hujus ecclesiæ patronus, August 6, sepult.[3]

Sir Bulstrode was thrice married. First, to Rebecca, daughter of Alderman Bennet, of London, by whom he had one son, James. Secondly, to Frances, daughter of Lord Willoughby, of Parham, by whom he had nine children, three of whom were sons.[4] Thirdly, he was married to a widow named Wilson, the daugter of ——— Carleton, Esq., who survived him. By her he had two sons;[5] but none of his male descendants remain.[6] However, about the year 1681 one of his sons was in possession of Hersham (Walton-on-Thames), left to his father by William Lilye, the author of "Ephemerides," a great pretender to astrology and physic.[7] And the family had lands in Oxford as late as in the reign of James the Second. One of these descendants possessed part of the ancestral property near Wokingham, in Berkshire.[8]

The Lord Commissioner, soon after his father's

[1] Burn's "Henley," p. 250, n. 76. The short remainder of the Will will be found there.

[2] Surely, 1675.

[3] *Ibid.*, citing the "Fawley Registers."

[4] "Memoirs," p. 124, 260. William, Willoughby, and Bulstrode.—See the "Memoirs," pp. 457—463.

[5] Samuel and Carleton.

[6] Foss's "Judges," vol. vi. p. 513.

[7] Wood's "Athenæ," by Bliss, vol. i. p. 37.

[8] "Memoirs," p. 2.

death, was summoned to enter his pedigree at the Herald's College. This order he obeyed, and produced thirteen descents on the part of his father, and fourteen on that of his mother.[1]

His uncle, Edward Bulstrode, was a very celebrated lawyer. He was the author of, certainly, one of the best old "Reports" of legal cases. He was Lent Reader of his Inn, and a Bencher, and he sided with the Presbyterians, taking the Covenant. Through the influence of his nephew, Bulstrode, he was, in 1649, made a Judge, or Chief Justice, of North Wales. He died in the beginning of April, 1659.[2]

The talented Chief Herald of Ireland (Ulster), in his "Vicissitudes of Families," has confounded this Edward Bulstrode with Sir Richard Bulstrode. He says that the Reporter was born in 1610. If so, the nephew would be five years older than himself. Such an event is not impossible. But it would not consist with the history of these lawyers. Sir Richard died at the Court of St. German's, after the Revolution. Edward, the uncle, died in 1659, three years after the publication of his "Reports."

Sir Richard was a staunch Cavalier; Edward was on the side of the Presbyterians, and took the Covenant,

[1] Whitelocke's "Memorials," vol. i. pp. 25, 197. His pedigree will be found at large in Burn's "History of Henley," p. 248; and in Lysons's "Magn. Brit.," vol. i. pp. 232, 233.

[2] Wood's "Athenæ," vol. iii. p. 471. Bulstrode is said to have adopted the method of Plowden in his "Reports," than which you cannot have greater recommendation.—Bridgman's "Legal Bibliography," p. 42.

becoming the Chief of the Welsh Judges, through the influence of his nephew, Whitelocke. Sir Richard was a poet, and an elegant letter-writer, accomplishments quite foreign to the dry lawyer, Edward Bulstrode, who, we may add, was never knighted.[1]

Sir William Whitelocke, the eldest son of Francis Willoughby, had Phillis Court, which was given up to him by Sir Bulstrode. He was one of the Readers, as well as Treasurer, of the Middle Temple.[2] He was likewise one of the Counsel of King William, Queen Anne, and George I.[3] "He was a violent Tory, and attached to old fashions, even to his shoe-strings. As black as ——," he said on some question in Parliament. "As your shoe-strings?" interrupted a Member on the opposite side. "Sir, I remember when there more shoe-strings and fewer coxcombs in this assembly," was the answer.

He sat for Portpigham, otherwise Westlow.[4]

In 1714 he was a Member for the University of Oxford, and he uttered this doubtful and difficult beginning of a speech: "If he," [The Elector] "comes to the Crown, which I hope he never will." Here there was a loud cry and confusion, and the Whigs would have had him brought to the bar. But he calmly said "he would retract nothing, he only meant

[1] "The Vicissitudes of Families," Second Series, p. 338.
[2] Burn's "Henley," p. 251.
[3] Lord Raymond's "Law Reports," vols. i. and ii.
[4] Westlooe.

that as the Queen was younger than her heir presumptive, he hoped she would outlive him."[1]

He died at Phillis Court, aged eighty-one, and was buried at Fawley 27th November, 1717, having survived his three sons.[2] He had endeavoured during his Parliamentary life to amend the law of constructive treason, remembering his father's efforts in his "Treatise on Parliaments," to shield his sons, William and Bulstrode, from any such charge.[3]

The sister of the Lord Commissioner was married when he had attained the age of nineteen to the son and heir of Sir Roger Mostyn, of Mostyn, Flintshire. The Judge gave her £2,500, and Sir Roger settled an estate of £3,000 a year on his son.[4]

Mention is made in a "History of Cardiganshire" of the son-in-law, who married the daughter of the Lord Commissioner, Hester.

But, instead of Sir Richard, according to the quotation below, we are informed we must read "Carberry." It is given from a manuscript entitled, "A True Character of the Deportment for these 18 years past of the Principal Gentry within the Counties of Car-

[1] Burn, p. 251. His portrait, the property of the Rev. Edward Philip Cooper, of Little Dolby, Leicestershire, represents him in a brown gown, trimmed with narrow gold lace, and with slashed sleeves.—*Ibid.*

[2] Burn's "Henley," p. 251.

[3] "Memoirs," p. 452.—"In case the work, advocating constitutional opinions, might happen to be seen by some such limb of the law as Jeffreys or Scroggs."—*Ibid.* Phillips in his "Grandeur of the Law," is not correct as to the sons. He has confounded the *father* with the sons, p. 123, 171.

[4] "Memoirs," p. 452.

marthen, Pembroke, and Cardigan, in South Wales," written about the year 1661.

Sir Richard Price[1] is spoken of as a young gentleman, not of full age, in the time that the discovery of principles was most dangerous, and, it is conceived, he hath not as yet any, that he is too much obliged unto. He ran through several public offices under all the Governments that had been from 1652 to this time; but, probably, more by the direction of his father-in-law, Mr. Bulstrode Whitelocke, than by his own desires.[2] . . . .

With regard to the disposition of Whitelocke's estates, Fawley went to his heir-at-law, James, the only child of his first wife, Rebecca. Phillis Court descended to William, the eldest son of the second wife.[3] In 1660 he appears to have been in a condition to make a lease of the manor of Henley, fairs, tolls, &c., to the Corporation of Henley.[4] There was also an estate left to him by Dr. Winston, which was settled by Act of Parliament in 1663 on Bulstrode, the fourth son. And Lilly, the astrologer, left Bulstrode to him, which, many years afterwards, came to his son, Carleton, who sold it for five hundred years, bought a Com-

[1] He was created a baronet August 9, 1641, and was of the ancient family of Pryse, of Gogerthan.—Meyrick, *infra*.

[2] Meyrick's "History and Antiquities of the County of Cardigan," London, 1810, p. 396.

[3] "Memoirs," p. 457.

[4] Burn's "History of Henley," p. 244.

mission, and rose to be a Major.[1] Burn says, that this estate was at Hersham, Surrey, and that Whitelocke got it through protecting the astrologer from a persecution for sorcery. Lilly's almanacks had a wonderful effect upon the soldiers and common people.[2]

Chilton Park was settled upon Samuel, the eldest son of Alderman Wilson's daughter, by an indenture made February 22, 1671.[3]

Fawley, the place where Whitelocke was best known, lies on the borders of Oxfordshire, about three miles north of Henley, and seven south-west of Great Marlow. The manor was in the Sackvilles from the Norman Conquest until 1400, after which it passed, by female heirs, to the families of Roke and Alford. From the latter it went, by descent, or purchase, to Judge Whitelocke. But one of Sir Bulstrode's sons sold it in 1680 to Colonel William Freeman. In the gallery of the new house, Fawley Court, are some portraits of the families of Whitelocke and Freeman.[4]

In 1651 another manor in the parish of Halton, in the hundred of Aylesbury was bought by the Serjeant. But it passed away, and fell into the hands of two co-heiresses.[5] Burn says, that in the latter part of

[1] "Memoirs," p. 463. This estate, "Blunt's Court, Essex," came through the grateful remembrance of Doctor Winston, for whom Whitelocke, unsolicited, had done some service at Court. The Doctor always attended Sir Bulstrode and his family gratuitously, "refusing to take a fee of thirteen children."—Burn's "Henley," p. 251.

[2] "History of Henley, p. 250.

[3] "Memoirs," p. 463.

[4] Lysons's "Magn. Brit.," vol. i. p. 562.

[5] *Id.* vol. i. p. 568.

Whitelocke's life, he procured an Act of Parliament for settling his estates on his three sons, but this Act has not been found.[1] He also conveyed, by date of June 6, 1672, premises at Hungerford and in Ireland, in trust to pay debts, with directions as to the surplus, &c.[2]

Bulstrode Whitelocke was an author of considerable merit and repute. His great work was, "Memorials of the English Affairs, from the supposed Expedition of Brute to this Island, to the end of the Reign of James the First." This was issued from his original MS. with a Preface from Dr. Welwood, who declares to the Editors of the "Memorials," "That the stile and manner of writing convinces me it must be Sir Bulstrode Whitelock's, tho' you had given me no other reasons to believe it."[3] His "Memorials of the English Affairs, from the beginning of the Reign of Charles the First to the Restoration," form an illustrious addition. Dr. Welwood, in the Preface abovementioned, celebrates the fidelity and exactness of the Memorialist, likening his annals to Lucius Florus.[4] "This work," says Bishop Burnet, with his usual

[1] "Hist. of Henley," p. 249. [2] *Id.* p. 250, n. 75.

[3] Dated from York Buildings, April 22, 1703.—"Memorials," by William Penn, London: 1709.

[4] The edition referred to was published in 1732. Arthur, Earl of Anglesea, published an edition in 1682, and took considerable liberties with the MS. The edition of 1732 restored the cancelled pages; "Notes and Queries," I., vol. ix. p. 127. The modern edition bears date London, 1853, and the Index figures will be found in the *margins* of the pages.

spleen, "that has been so much cried up, is a meagre diary, wrote by a poor-spirited, self-interested, and self-conceited lawyer of eminence, *but full of facts.*[1]" Sir Bulstrode left some unpublished MSS. containing a portion of his early days, in a thin folio volume, and the "Annals of his Life," written for his children.[2] We have already noticed his work "Upon Parliaments," and that it was published by Dr. Morton in 1766.[3] Lord De la Warre had some of the MSS. at Buckhurst, and several are in the British Museum.[4] Whitelocke was also a religious author. He wrote several discourses, as they were delivered in his own family.[5] William Penn edited these discourses, and vouches the authority of Sir Bulstrode's daughter, who told him that, with other MSS. they had been in her keeping since her father's death.[6]

That he was a good French scholar is evident, since, in the absence of Mr. Hollis, he was called upon to interpret the speech of the States' Ambassadors in 1644.[7]

We cannot close the history of this eminent person

[1] "History of his Own Times."

[2] See an account of it in the "Memoirs," p. 116.

[3] *Ante.* Dr. Morton lamented the want of the "Annales of his life for the instruction of his children." The Doctor brought the existence of this work into notice. See D'Israeli's "Curiosities of Literature." But Mr. Burn tells us, that the first volume is in the possession of George Whitelocke, Esq. He had perused it, but says that the first twenty years of Sir Bulstrode's life were not very eventful.—"Hist. of Henley," p. 249.

[4] Burn's "Hist. of Henley," pp. 248, 249.

[5] Burton's "Diary," vol. i. p. cxxvi. n.

[6] *Id.* p. cxxvii. n.

[7] "Memorials," vol. i. p. 118.—"Memoirs," p. 456.

without an endeavour to illustrate his character, in a brief summary. But, before we enter upon this, it may be well insisted, that Whitelocke was a Law Reformer. Lord Campbell is half disposed to claim that character for him. For he says: "A Bill had been brought in to regulate—not to abolish—the Court of Chancery; but it had not proceeded further than the Committee, and we are not informed of its contents."[1]

Nevertheless, on the 18th of June, 1648, there was a Meeting at the Attorney-General's house, where the Speaker, Whitelocke, Keeble, Chute, and two others dined and conferred together on the reformation of Chancery proceedings, and they agreed upon some general points.[2]

But if any fact were wanting to substantiate this title to be a Law Reformer, his success in carrying a measure "For putting all the Books of Law, and the process and proceedings in Courts of Justice into the English tongue," must suffice to yield him this crowning honour.[3]

The writer of the "Memoirs," speaks thus of his religious character. After mentioning that he was magnificently feasted with the Members of both Houses at Grocer's Hall, to celebrate the victory of Naseby, he goes on to say, that they did not separate

1 "Chancellors," vol. iv. p. 57.
2 "Memoirs," p. 263.
3 "Memorials," pp. 478—483.—"Memoirs," pp. 288—294.

after dinner, till they had sung the 46th Psalm. "Whitelocke was fast acquiring a taste for the new creed, and, although he never became a fanatic, like Laud, or a blind enthusiast, like a puritanic parson, he consorted too much about this time with the ultra-religious portion of his countrymen."[1] However, he threw off the yoke as soon as he could, and "would play a rubber of whist, or go out hunting and fishing for the sake of recreation, like any other country gentleman, as soon as circumstances permitted these indulgences."[2]

The clue which we must keep sight of in contemplating Whitelocke's chequered career, is that he was, in his nature, a gentleman. No doubt he derived much of his courtesy and elevation of mind from his father and his family, but there was implanted in him a mildness which adorned his actions and behaviour, and won for him the deep regards of his friends, and the admiration of his political adversaries. He had all the qualities which belong to a man of degree. Patient to a fault; wise and discreet, knowing exactly the legitimate bounds to the rare virtue of discretion; incomparable in shrewdness, which he acquired by gathering together a store of knowledge respecting the human character; ready, notwithstanding, for any change of incidents; keen to avenge an insult; bold and daring in the day of danger; alike the soldier,

[1] "Memoirs," p. 216. [2] *Ibid.*

the citizen, the prime lawyer of his Court, the courtier and the friend. Well might it be said of him:—

"Inter concordes vixisti fidus amicos."

And, throughout these varied stages of life, charity, that excellent gift to the soul, shone conspicuous. It was, as it were, the element of Whitelocke's existence that peace should overcome war. Yet we are not panegyrists. He was vain. It might have been that his vanity was just as became a gentleman. Vanity is a term capable of being apportioned. Some vain men are offensive; others exhibit simply that personal sense of merit which may amuse, but which neither gives pain nor disgust. Sir Bulstrode always felt the superiority of his ambition, but the history of his life, public or domestic, reveals no arrogance, no assumption. He was adroit; quite alive to his own interest; but we have no account that he worked ill to any one. He was dexterous, but it was chiefly in avoiding the shoals which threatened him. His ready wit gave him the lead of his Circuit, and his elegant demeanour made him an Ambassador. We must not seek for faults where none present themselves openly.

On the contrary, in the midst of any errors or blemishes in his conduct which might be discovered, for it is not in the nature of man,

"*Nil* conscire sibi, nullâ pallescere culpâ."

his scholarship, and love of learning, and zealous patronage of literature must be invoked to blot them

out. We have related the pains he underwent to save the valuable libraries, which were endangered during the Civil War; we have referred to his ornate speeches, which, if not free from pedantry, savoured highly of elegant attainments; we have told of his Christian behaviour on occasions when, in many other persons, severity might have supplanted forbearance; we have given many illustrations of his earnest yearnings for peace, during the great war between the Monarchy and the Commonwealth; we have intimated the resolution wrung from him, not as people might suppose, from any love to royalty; but from a keen sense of the anarchy of his country, to send to Breda for Charles the Second, in which he failed, through the cowardice or vacillation of others. We hail him in his final retirement, not as some have said, put away by his Sovereign; but respected by the Monarch, and happy in a solitude of which literature was the charm, and which the pains of an incurable ailment could not deeply embitter. Religion, not the fanciful ideas of piety adopted by contending sects, but the clear perception of a state, immediate after death; joyous—but holy—made his sufferings lighter, and his end serene.

SIR HENRY FINCH.

Serjeant-at-Law, 1614—King's Serjeant, 1616.

[Mrs. M. G. Strode, *née* Brabazon, has very kindly allowed the Author to see the Strode Papers. . . . . .]

HENRY FINCH was the son of Thomas Finch, of Eastwell Park, Kent,[1] and was born either at the close of Queen Mary's reign or the beginning of that of Elizabeth. His elder brother was Sir Moyle Finch, father of Thomas, first Earl of Winchelsea.[2]

We have found it difficult to gather any records of his early life. Indeed, there are but few faithful chroniclers of youthful days. "A chronicle of day by day" is a gem of rare lustre. . . . . "Talking of youth, there was a certain Professor at Cambridge, who used to keep sketches of all the lads, who from their conduct at college, seemed to bid fair for distinction in life."[3]

Sir Henry was admitted a member of Gray's Inn in

[1] Gorton's "Biog. Dict.," tit. "Finch."

[2] "History of the Brabazon Family;" published in Paris, for private distribution only: July, 1825, p. 12 (n. 27.) See the monuments to Sir Heneage Finch and Lord Nottingham, with their inscriptions, Blomefield's "Collectanea Cantabrigiensia," p. 144.

[3] "Life of Walter Scott," Lockhart, p. 687.

1577,[1] and he was Autumn Reader of his Inn in the second year of James the First.[2] The rank of the coif was given to Finch in 1614, and in 1616 he was made a King's Serjeant. In 1613 he was made Recorder of Sandwich, and in 1624 counsel to the Cinque Ports.[3]

Sir Henry died in 1625.[4]

His son John was Lord Keeper in the latter end of Charles the First's reign, and was created Lord Finch, of Fordwich.[5]

Elizabeth Clifford, the wife of Sir William Brabazon, Knight, Lord Treasurer of Ireland for thirty-two years, had by him two sons and two daughters. The eldest daughter was married to Andrew Wise, of Dublin, Esq.; and secondly to William Thwaites, of Kent. By the last she had an only daughter, Ursula, who married Sir Henry Finch, the Serjeant, and was thus the mother of Lord Finch.[6] Sir William is said to have been the first who planted in Connaught, and won the castle of Athlone.[7]

Sir Heneage Finch, Serjeant-at-Law, Recorder of London, and Speaker of the House of Commons, who died in 1631, was a cousin of Sir Henry; and Sir Heneage's eldest son was successively a Baronet in

[1] Pearce's "Inns of Court," p. 364.
[2] Dugdale's "Origines," p. 296.
[3] Boys's "Collection for a History of Sandwich," pp. 423, 779.
[4] Gorton's "Biog. Dict.," tit. "Finch."
[5] *Ibid.* "Hist. of the Brabazon Family," p. 12.
[6] "The Brabazon Family," p. 12; Berry's "Genealogies, Kent," p. 206.
[7] "The Brabazon Family," as above.

1660, Lord Keeper, 1673; Baron Finch, of Daventry, in the same year; and Lord Chancellor, 1675. In 1681 he was created Earl of Nottingham.[1] This family was very distinguished. The second son of Lord Nottingham was Heneage, Solicitor-General to Charles the Second and James the Second. He was created Earl of Aylesford by George the First.[2]

Sir Henry was the author of "NOMOTEXNIA; or, the First Institute of our Laws, adapted to the time, with a fourth book not before published, and compared carefully with the French in folio, and two former English editions; and the MS. presented by him to King James the First, in my hands,[3] with notice of all the alterations by Statutes, and references to Reports, by years as before."[4] This was a Treatise on the "Common Law," printed in folio, 1613, of which Sir Henry afterwards published a translation.[5]

[1] Berry's "Genealogies, Kent," p. 207.

[2] Manning and Bray's "Surrey," vol. i. p. 125.

[3] Mr. Johnson, under date of September 28, 1748.—Nichols's "Literary Anecdotes," vol. vi. p. 94, n.

[4] *Id.* p. 95.

[5] Gorton's "Biog. Dict.," title "Finch." Nichols has a quære of Finch's "Description of the Common Laws of England," 1759, 8vo.—Nichols, as above, p. 36, n. and 95, n.

WILLIAM CONYERS.

[Voted a Serjeant-at-Law by the Parliament, 1658.]

THE name of Conyers (it is sometimes spelt Coniers,) is distinguished in legal annals.

John Conyers was a King's Counsel in the reign of William and Mary, and of Queen Anne, and we find him again in the reign of George the First.

But our concern is with the Serjeants, William Conyers and Tristram Conyers, father and son.

Hackford, near Hornby Hall, in the North Riding of Yorkshire, was the ancient seat of the Conyers family,[1] but the Serjeant is described as of Copthall, Essex.

William Conyers, of the Middle Temple, was born in 1587. In the time of the Long Parliament he was, on the 12th of October, 1648, voted by the House to be a Serjeant.[2]

The epitaphs of William and Tristram Conyers will be found at Walthamstow (Essex). Against the east wall of the south aisle is this inscription, with the arms of Conyers:—

[1] Nichols's "Literary Anecdotes," vol. viii. p. 341, n.

[2] Wynne's "Serjeants-at-Law," p. 63.

"William Conyers, Serviens ad Legem,
Stirpe clarâ et perantiquâ ex agro,
Eboracensi oriundus.
In hereditate successit avunculo suo,
Tristamo Conyers, armigero, olim
Hujus parochiæ incolæ.
Tristamus sine prole decessit,
Anno Christi, 1620.
Et juxta sepultus jacet.
Gulielmus é duplici conjugio,
Numerosam suscepit prolem.
E priore conjuge, Mariâ, filiâ
Francisci Harvey, Militis Northamptoniensis,
Unius justitiariorum de Banco
Elizabetham, Tristramum Mariam et Gulielmum,
Inter vivos reliquit.
Ex alterâ, Dorotheâ, filiâ Gulielmi
Beecher, Militis, Bedfordiensis,
E quinque filiis, et totidem filiabus
Olivorus, Dorothea, Juditha, et Margareta,
Patrem supervixerunt,
Fatis cessit anno 1659, Ætatis suæ 73;
Et hic juxta
Cum uxore Dorotheâ
Reconditur."[1]

[1] Nichols's "Leicestershire," vol. ii. p. 458.

SIR JOHN KELYNG.

King's Counsel, Serjeant-at-Law, and King's Serjeant, 1680.

[Mr. Bridger, the eminent author of "Pedigrees," has assisted the author in the course of this work with many genealogical notes of Serjeants.]

JOHN KELYNG, or Keelinge, was the son of Sir John Kelyng,[1] Chief Justice of the King's Bench from 1665 to 1671. The Keelinge family belonged to Staffordshire, and they were seated at Bewarsley in 1663.[2]

The Chief Justice married three times. His first wife was Martha, eldest daughter of Sir Thomas Boteler, of Bidenham, Bedfordshire, Knight. This lady died "in Chancery Lane, London, by the Globe 'Tavern,' on the 18th July, 1660, and was buried in the Temple Church."[3]

Her eldest son was Serjeant, Sir John Kelyng. The house of the Chief Justice was in Hatton Garden, and, in 1671, he died there, and was buried at St. Andrew's, Holborn, on the 13th of May.[4]

[1] Sir John, the Chief Justice, is curiously mentioned in the "Chamberlain's Account for Windsor in 1638:"—"p^{d}. for II. quart pots of ale when wee went to visit Mr. Keelinge, 00. 01. 04." An entry occurs previously of the payment of £1 to "Mr. Keeling, the Councillor, for his fee."—"Annals," by Tighe and Davis, vol. ii. p. 137.

[2] Burke's "Commoners," vol. iv. p. 51, n.

[3] Le Neve's "Pedigrees of Knights."—Harl. 5801, fol. 536.

[4] Le Neve, as above.

Mr. Kelyng was of the Inner Temple. He was admitted in 1653 under the name of John Keling, of South Hill, Beds.

He was knighted at Whitehall in January, 1661.[1]

On the 12th of May, 1680, he was called to the degree of the coif, and, with several others, went through the grand ceremony, and partook of the banquet.[2] He was then one of the King's Counsel, and, as it would be difficult to find an instance of the union of these promotions, an explanation of the matter is of necessity. Now, it is a common notion that Bacon was the first of His Majesty's Counsel, and, probably, he might have been, but he was "the King's Counsel Extraordinary, and *without a salary*." It seems that until a late date a salary, perhaps £40 a year, was attached to that rank, and North, afterwards Lord Keeper, was, we may venture to suggest, the first of *this class*. There was, therefore, nothing remarkable for a lawyer holding the honorary appointment to seek the higher position of the coif, and the more so, because the dignity of the King's Serjeant was then far more easily attainable than in more modern days. We, therefore, perceive his name amongst the brethren above alluded to as "one of the King's Counsel."[3] It appears that he went out King's Serjeant at the same time;[4] but he did not long enjoy

[1] Le Neve's "Pedigrees of Knights."—Harl. 5801, fol. 536.

[2] Luttrell's "Diary," vol. i. p. 43. They took the oaths of allegiance and supremacy, and the particular oath as Serjeants.

[3] "The Law Reports of Sir Thomas Raymond," p. 360.

[4] Wynne, p. 83.

his advancement, for, on the 29th of December following his elevation, he died at his house at Southhill, Bedfordshire.[1]

This Sir John Kelyng, the son, was named in 1660, one of the intended knights of the Royal Oak. However, he received the honour of knighthood at Whitehall in 1661.[2] His mother's *family* has not been found; but the "Registry" of St. Andrew's, Holborn, records her burial under her Christian name, September 26, 1667. And the Judge's second marriage with Mrs. Eliz. Bassett also appears there, March 23, 1667-1668.[3] She was the daughter of Sir Francis Bassett, of Cornwall, Knight. He had a daughter, Martha, who became the second wife of Sir John Osborn, Bart.,[4] and she had a daughter, Elizabeth, born December 6, 1691; died December, 1734, aged forty-three years.[5]

Another of the Chief Justice's daughters was Philippa. She was the second wife of Sir William Lytton, of Knebworth; M.P. for Hertfordshire.

The Serjeant married Philippa, daughter of Seignior Amerigo Salvetti Antellninello, Resident for the Duke of Tuscany. She was living in 1699. By her he had issue, and, amongst others, Anthony, Rector of Bedford.[6]

[1] Sir Thomas Raymond, p. 419. Counsel Extraordinary to the King and his Serjeant.

[2] *Ante.*

[3] *Ante;* Foss, vol. vii. p. 139.

[4] Le Neve, as above; "Collect. Topograph. et Genealogica," vol. iii. p. 130.

[5] Buried in Campton Church, Bedfordshire.—*Ibid.*

[6] Le Neve, as above.

SIR THOMAS HARDRES.

Serjeant-at-Law, 1669.

Sir Thomas Hardres was descended from a very ancient race of his name. The family of Hardres held the Manor of Broad Oak from the reign of Henry IV. to that of Henry VIII.[1] "The ancient family of Hardres, in Kent, beares gules, a lyon rampant, ermine, debrused, with a cheveron or, denoting that they held their said manor by knight's service of the Castle of Tunbridge, in Kent, which was the ancient Seigniory of the Clares."[2] But the Canterbury branch, the descendants of the Serjeant, seem to have left out the chevrons.[3]

"Hardres the Nether, or Little, lies about the middle of the east side of Kent, about two miles and a half south from Canterbury, in the Bailiwick and Hundred of Bridge and Petham, Lath of St. Austin, east division of the county, and division of Justices in that Lath."[4]

[1] Hasted's "Kent," vol. iv. p. 400, note, (p.)

[2] "Gent. Mag.," vol. lxxxii. pt. ii. p. 609; Burke's "Extinct Baronetage," tit. "Hardres."—"On Armories."

[3] "Arch. Cantiana," vol. iv. p. 56.

[4] Harris's "Kent," tom. i. p. 143.

But we have very small means of presenting this Serjeant and his family to the public.

Richard was Sheriff of Kent in the 30th year of Queen Elizabeth.[1]

The family must be considered Kentish. Two of that name graduated at Cambridge. Thomas, of Queen's, M.A., 1663. John, S.T.P., per literas Regias, M.A., 1669.[2]

The knight, however, was of some note in this day as a lawyer, a reporter, and a man of rank.

Thomas Hardres was born about the year 1610.[3] His father, Thomas, was born in 1575, and died in 1628. He was buried at Upper Hardres. His wife, Eleanor, was the only surviving daughter and heiress of Henry Thoresby, of Thoresby (a Master in Chancery in 1615), by Joan, daughter and heiress of John Palmer, of Hartlip. Sir Thomas was his fourth son.[4] He was of Gray's Inn.

One of his early preferments was the Stewardship of the Manor of Lambeth. This he held from 1649 to his death, in 1681.[5] This was the Manor of Faux-hall, or *Vauxhall.* He is said by Allen to have been Steward from 1649 to 1681, under the successive descriptions of Esquire, Serjeant-at-Law, and Knight.[6]

[1] "Harris's "Kent," tom. i. p. 434.

[2] "Graduati Cantabrigienses," 1659—1823, p. 214.

[3] "Archæol. Cantiana," vol. iv. p. 56.

[4] *Ibid.* Lysons's "London," vol. ii. p. 462. Thoresby was buried in the chancel at Hackney.—Lysons.

[5] Lysons's "London," vol. iv. p. 596.

[6] Allen's "Lambeth," p. 272.

Thomas Hardres was called to the degree of Serjeant in the vacation after Michaelmas term, 1669. In 1679 he was returned for Canterbury.[1]

He died about December, 1681, Æt. 71, and was buried at Canterbury.[2]

Sir Thomas had two wives. The first was Dorcas, the daughter and heiress of George Bargrave, of Bridge. She was buried at Upper Hardres in 1643. His second was Philadelphia, daughter of Franklyn, of Maidstone, and widow of Peter Manwood. She died in 1691, and was buried in the Cathedral. Sir Thomas had several brothers. The eldest, Richard, was born in 1606, and, in 1642, was created a Baronet. He died in 1669, and was buried at Upper Hardres.

. . . . .

John Hardres, of St. George's, Canterbury, was Member for that city in the time of Queen Anne and George the First.[3]

NOTE.—At the seat of the family, Hardres Court, in the Parish of Great Hardres, in Kent, were, according to tradition, the Gates of "*Bullogne*," which were given by Henry VIII. to a member of the family, who had attended the King at the siege.[4]

[1] Hasted's "Kent," vol. iv. p. 40. The name of Hardres was well known in Canterbury. Mr. Hardres, who died January 15, 1758, sat for that city in several Parliaments.—London, May, 1858, p. 52.

[2] "Serjeant Hardresse is lately dead, and his corps was carried from Serjeant's Inn to Canterbury, where he is to be interred."—Luttrell's "Diary," vol. i. p. 153.

[3] Burke's "Extinct Baronetage," tit. "Hardres;" "Arch. Cant.," as above. —See the Pedigree in the "Archæologia."

[4] Burke, as above.

TRISTRAM CONYERS.

Serjeant-at-Law, 1674.

TRISTRAM CONYERS was born in 1619. He was the eldest son of Serjeant William Conyers, of Copthall, in Essex. He was educated at Merchant Taylors', and left that school in 1635. There is no record of his having graduated at a university. He was father of Sir Gerard Conyers, Lord Mayor of London.[1] He was subsequently entered at the Middle Temple.

Tristram Conyers was "a person of great judgment and knowledge of the law. He was descended from William Coniers, Esq.,[2] a learned member of that Society [the Middle Temple], and one of their Readers in the beginning of the reign of Charles I."[3]

He had a writ to take upon himself the rank of a Serjeant on the 29th January 1674.[4]

But we know little more. His title to a place consists more in the name of legal memory, which he

[1] "Notes and Queries," IV. vol. ii. p. 42. Answer to Mr. Serjeant Woolrych.

[2] William Conyers, the Serjeant, his father.

[3] Phillips's "Grandeur of the Law," p. 155.

[4] Wynne, Serjeant-at-Law, p. 82.

supported, than for any important distinction achieved by him.

This is his epitaph in Walthamstow Church. On the east wall of the south aisle, upon a monument of white marble, with an urn of alabaster above, and the arms of Conyers—

"Hic è propinquo depositum jacet.
Quicquid fuit mortale
Tristram Conyers, Serviens ad Legem,
Filii et hæredis William Conyers, Servientis ad legem,
E Maria filiâ Francisci[1] Hervey, Militis
Justitiarii de Banco.
Unà cum lectissima conjuge Winefrida, filiâ
Gilberti Gerrard, de Harrow super Montem
In Agro Middlesexiæ, Baronetti.
Tristamus inter primos Sæculi sui
Jurisconsultos claruit,
Winefrida, naturæ dotibus, pietate,
Munificentiâ erga pauperes, nulli cessit,
Numerosam habuere prolem;
Filios quinque, filiasque sex.
Ex his vero tres solum superstites,
Johannes, Gerrardus, et Maria;
Parentes desideratissimos seriùs
Ocyùs Sequuturi.
Tristamus } Obiit, 6°. Augusti { 1684 } Ætat { 64
Winefrida } 5°. Aprilis { 1694 } Ætat { 69."[2]

[1] It should be Harvie.

[2] Nichols's "Leicestershire," vol. ii. p. 458.

SIR THOMAS SKIPWITH, KNT. AND BART.

Serjeant-at-Law, 1675.

THE recognition of more than one distinguished person in the same family is at once a subject of interest and pleasure. Pitt succeeds to Chatham, Charles Yorke to Lord Hardwicke, Lord Hood and Lord Bridport were near relatives; the Napiers represent the army; the mantle of Kean fell on his son, Charles Kean; the Brunels and Stephensons claimed the inheritance of engineering. Poets, like giants, stand alone. Perhaps the name of Philips may excite attention; but there is no ground for supposing that Ambrose Phillips was related to the author of the "Splendid Shilling."

> "The race in after times was known to fame,
> New honours adding to the Latian name."

The family of Schypwic, or Skipwith, was very ancient.

Fulwar Skipwith, late of the Bengal Civil Service, has contributed some valuable materials for a history of his family.[1] He has set right the errors of Fuller and Dugdale.

[1] "A Brief Account of the Skipwiths of Newbold, Metheringham, and Prestwould, for private circulation only." Fulwar was a favourite name in the Skipwith family.—Dugdale's "Warwickshire," vol. i. p. 84.

In his first chapter he speaks of the "Estoutevilles."[1] The second contains the "Memorials" of the "Common Ancestors of the Skipwiths of Newbold, Metheringham, and Prestwould." With this chapter we have, in some measure, to do, because a very distinguished Judge, ancestor of the Serjeant, is there accurately described.

William de Skipwith died in the 10th year of Edward III.[2] John, his eldest son and heir, died without issue in the same year as his father. The third son was Sir Ralph. The second was the Judge. He "succeeded his brother in his estates a few months after his father's death. He was bred to the Bar, and attained great eminence as an advocate and a Judge. In 1348 he was representative in Parliament for the City of York, and, in 1350, was, together with the Duke, (then Earl) of Lancaster, John de Bokyngham, Bishop of Lincoln, and others, appointed assistant to the Aldermen of Boston. In 1353 he was made Judge of Assize, and, in 1355, a King's Serjeant. In 1359 he was constituted one of the Judges of the King's Bench, and, in 1362, Lord Chief Baron of the Exchequer, continuing therein till 1365, when he was supposed by some to have died;[3] but in reality he

[1] "Forgettest thou, De Bracy, that Robert Estoteville lies betwixt thee and Hull with all his forces, and that the Earl of Essex is gathering his followers?" —"Ivanhoe."

[2] There is an error of the press here in Mr. Skipwith's book. It should *not* be 40 Ed. III. He has got the date right in the margin (1337).

[3] Dugdale, amongst others, fell into this mistake. See his "Warwickshire," vol. i. p. 84.—"Pedigree of Skipwith."

was removed from his situation, and imprisoned on suspicion of some malpractices.[1] In 1370 he was restored to the Bench, and made Chief Justice of Ireland,[2] and, in 1376, he was appointed Judge of Common Pleas in England, and was confirmed in his appointment in the first year of Richard II., continuing therein till the 11th year of the same King's reign, when he resigned, and retired into private life."[3]

"The cause of Sir William's [final] retirement from office," says his "Family Chronicler," "does not appear to be certainly known." Knighton, in his "Chronicles," asserts that he "pretended indisposition, so that he might not join his fellow Judges in giving an illegal decision against the Duke of Gloucester, while Fuller writes: 'Sir William Skipwith, *junior*,[4] was herein remarkable to all posterity, that he would

[1] Fuller, citing Sir Henry Spelman's "Justiciarius," says that "at the importunity of John of Gaunt, Duke of Lancaster, Sir William condemned William of Wykeham of crimes rather powerfully objected to than proved against him."—"Worthies," vol. ii. p. 14. "But this statement," says Fulwar Skipwith, "is not borne out by his biographers."—"Brief Account," p. 14.

[2] William de Skipwith, patent, 25 April, 1371, 45 Ed. III., f. R. 4.—Smyth's "Law Officers of Ireland," p. 80. He was succeeded by John Keppoch, patent, 22 April, 1373, 47 Ed. III.—*Ibid.* These dates are given thus particularly in order to clear up the errors to which we have alluded.

[3] "Brief Account," p. 14; Dugdale's "Chr. Ser.," pp. 48, 50. Will. de Skipwith, Rog. de Fulthorpe, Rog. de Kirketon, and Tho. de Engolby, habent XL. marcas sibi concessas, 26 Junii, patent, 1 Ric. II., p. 1.—*Id.* p. 50.

[4] This seems to be wrong. William Skipwith, junior, was a Commissioner of Yorkshire in 50 and 51 Ed. III. He is called the son of Sir William Skipwith, affording the strong presumption that the father was alive.—"Brief Account," &c., p. 17.

not comply with the importunity of King Richard II., nor the example of his fellow Judges in the 10th year of that King's reign, to allow that the King, by his own power, might rescind an Act of Parliament. *Solus inter impios mansit Gulielmus Skipwith.* In the following year he obtained his quietus.' "[1]

Fuller seems to have fallen into a strange mistake by introducing Sir William Skipwith, *junior*,[2] into his list of "Worthies." Fuller speaks of this supposed second Judge as being "inferior to the former in place, (whom I behold," he says,) "as a puisne Judge, but herein remarkable to all posterity, that he would not complie, neither for the importunity of King Richard the Second, nor the example of his fellow Judges. He shined the brighter for living in the midst of a crooked generation, bowed with fear and favour into corruption."[3]

We prefer the far more probable history of the Skipwiths by Fulwar Skipwith, whom we have just cited, and comparing his genealogical record with Dugdale's "Chronica Series," a book of great autho-

[1] "Brief Account," p. 15; citing Fuller's "Worthies," p. 160.

[2] After detailing the promotions of the elder Skipwith, Fulwar Skipwith proceeds to give those of the younger, Sir William, which were quite of a different character, rather belonging to a superior Justice of the Peace.—"Brief Account," &c., pp. 17, 18.

[3] "Worthies," vol. ii. p. 14. And Sir William Dugdale follows him in the mistake.—"Warwickshire," vol. i. p. 84, pedigree of Skipwith. Fuller appears to have known but little of the family. "There is a village," he says, "in the East Riding of Yorkshire called Skipwith, but whether to place Sir William's nativity there, he did not know."—"Worthies," vol. ii. p. 14.

rity,[1] there can be very little doubt but that the Chief Baron of England, the Lord Chief Justice of Ireland, and the Judge of the Common Pleas, who resigned in the reign of Richard the Second, must be considered to have been the same person.[2]

Phillips, likewise, in his "Splendour of the Law," although not quite so exact as the family biographer, has sufficient references to lead without difficulty to the same conclusion.[3] The Judge, probably, died in 1391, 15 Ric. II., aged about seventy-five.[4]

However, we here more particularly speak of the Serjeant, Sir Thomas Skipwith.

He was of Metheringham, in the County of Lincoln, and of Gray's Inn; but the family came, in the first instance, from Yorkshire.

"In Whitelocke's 'Memorials' of English affairs,"[5] says Fulwar Skipwith, "there is mention made of a Thomas Skipwith being appointed in 1657 one of the Commissioners for surveying the forest of Sherwood, under directions issued by the Parliament of the Protector, and he was, probably, Sir Thomas, the first Baronet."[6]

[1] p. 50.

[2] "Brief Account," pp. 16, 17, 18; Foss's "Lives of the Judges," vol. iii. pp. 88—94. A full pedigree of the Skipwith family was in the hands of Sir Fulwar Skipwith, Bart., about the year 1730.—See Dugdale's "Warwickshire," vol. i. pp. 83—85; vol. ii. p. 726.

[3] pp. 45, 100, 206, 227. But Phillips was not aware that he was ever Chief Justice of Ireland.

[4] "Brief Account," p. 18.

[5] Vol. iv. p. 662.

[6] "Brief Account," p. 30.

He appears to have taken his seat for Grantham in 1658-59.[1]

Sir Thomas was knighted on the 29th of May, 1673. He was made a Serjeant on the 21st of April, 1675, and, in 1678, he was created a Baronet. He married, first, Elizabeth, daughter of Ralph Lathom, Esq., of Essex.[2] By her he had Sir Thomas, his successor, and Susan, who became the wife of Sir John Williams, Bart., of Minster Court, in the Isle of Thanet. Secondly, he married Elizabeth, daughter of Sir John Rea, Knight of London, the widow of Edward Maddison, Esq. By her he had not any issue.[3]

Sir Thomas Skipwith, of Metheringham (which was the old place in the very early times), died at a great age at his house in Lincoln's Inn Fields in May, 1694.[4]

His son Sir Thomas, of Valentines, in Upminster, Essex, married Margaret, daughter of George Brydges, Lord Chandos, relict of William Brownlow, of Hornby, in the County of Lincoln, Esq. By her he had one son, Sir George Brydges Skipwith, Bart., who was living in 1723, in his thirty-seventh year.[5] Sir Thomas died at Bath, on the 15th of June, 1710. "He is mentioned in Mrs. Manley's 'Memoirs,' as a man of unenviable notoriety, even in those days, for his *bonnes fortunes*.[6]

[1] 11 Car. II. [2] "Brief Account," p. 29.
[3] See Burke's "Extinct Baronetage," p. 489.—Tit. "Skipwith."
[4] "Nichols's "Leicestershire," vol. iii. p. 557.—"Brief Account," p. 29.
[5] Nichols, as above. [6] "Brief Account," p. 29.

Sir George married the sole daughter and heiress of Robert Pitt, M.D., and dying without issue on the 3rd of June, 1756, the title became extinct.[1]

It appears that Sir Thomas, the son of the Serjeant, was not particular in his company.

"The highwayman," says a writer in 'Once a Week,' "would seem to have always had a certain number of admirers and sympathisers, even among the best ranks of society. Opinion was divided about him, while some people would only look upon him as a ruffian and a robber, others were inclined to consider him pityingly, as the victim of unfortunate circumstances—as a sort of officer without a commission—a member of an unrecognised profession—a privateer, who was not sanctioned by his Government. Undoubtedly, 'the road' as a means of obtaining a livelihood had its interesting, even its romantic side, and was regarded with much leniency and complacency by many, especially no doubt by those who 'lived at home at ease,' and seldom had occasion to move from their firesides after nightfall. We read of one Mr. Cardell Goodman—a terrible scamp, his name notwithstanding—who, expelled from the University of Cambridge, for defacing the pictures of the then Chancellor, the Duke of Monmouth appeared as an actor on the boards of Drury Lane in the year 1677, when theatrical salaries were singularly small. Mr. Good-

[1] "Brief Account," p. 30; and see further as to the pedigree of Skipwith, Nichols's "Leicestershire," vol. iii. p. 368.

man acquired fame from his performance; but six and three pence a day was a very inadequate stipend for the gay, handsome, reckless gentleman, whose passions were strong and appetites considerable. To replenish his empty pockets, therefore, he did not scruple to confess that he had 'taken the air,' as he called it; in other words cried, 'Stand and deliver' on the King's highway, and borrowed money from the first man he met. For this offence he was brought to trial and condemned to death, but was, however, graciously pardoned by King James. It was in gratitude for this clemency, perhaps, that he afterwards joined in Sir John Fenwick's plot to assassinate Dutchman William, in 1696. Fortune favoured him once more. William the Third, not to be less merciful than his predecessor, spared the life which was again forfeited to the law, on condition that the culprit should furnish evidence against his accomplice. Goodman, however, evaded this condition, fled to the Continent, and died in exile. It was this same actor who at one time enjoyed the admiration of the notorious Duchess of Cleveland. He had money in his pockets in those days, and would only appear on the boards when it was his own good pleasure, or the desire of his patroness, that he should do so. He declared he would not even play 'Alexander the Great,' unless 'his Duchess,' as he called her, were in front to witness the performance. But what we would more particularly call attention to, is the fact of his having played the part of the highway-

man on the stage of life, without apparently incurring any great censure or obloquy. He was afterwards received at the theatre with no less favour than before, and did not forfeit such position in society as he had previously secured. Colley Cibber mentions having met Goodman at dinner at Sir Thomas Skipwith's, 'Who, as he was an agreeable companion himself, liked Goodman for the same quality.' This dinner was not only after Goodman's adventures on the highway, but at a time when his complicity in Sir John Fenwick's plot had been fully proved, and evidence against the chief conspirator was duly expected from him. It seems strange that this actor, robber and traitor should be considered 'pleasant company,' and that he should be induced to converse fully of his misdeeds. Yet Cibber tells us that Goodman, 'Without disguise or sparing himself, fell into a laughing account of several loose passages of his younger life.' It appears to have occurred to no one present that Mr. Goodman, however agreeable, was hardly a fitting associate for honest men."[1]

[1] "Once a Week," 1864, p. 667.

SIR NATHANIEL BOND, KNT.

Serjeant-at-Law—King's Serjeant.

THE name of Bond is well known to the readers of legal history. Sir Nathaniel Bond belonged to the days of William the Third and Queen Anne. But we have in the reign of George the Third, George Bond, a man of considerable business, and a King's Serjeant, and the Right Honourable Nathaniel Bond, a King's Counsel, and, for a short time, Vice-President of the Board of Trade. Nathaniel Bond was born in 1754, and died in 1823, at his seat at Fareham, Dorset. He sat for Corfe Castle, and, during the administration of his party, was Judge Advocate, and he was for a short time Vice-President of the Board of Trade.[1] The

[1] Burke's "Landed Gentry," Bond of Grange. Hutchins writes thus: "Stockford, a manor and hamlet, a little hamlet from Bonnegar, almost opposite to Stoke. The style of the manor is the manor of Rushton, Stockford, and Binnegar. In 2 Jac. I. it belonged to Thomas, Viscount Bindon, to whom it seems to have descended from Lord Poynings, in 29 Eliz. It had been granted to Edward Wikemarsh. By a survey, sans date, it belonged to Thomas Grove, Esq., and consisted of nine copy and one leasehold old rents, £3. 7s. 4d. In 1689 Huttoft Grove, of Berdenhall, held it, as did Paul Bowes, Esq., 1700. Thence it came to the Bonds of Grange. In 1730 this manor, consisting of thirteen tenements, lord's rent 4s. 8d., belonged to Dennis Bond, Esq., who left it to his nephew, Nathaniel Bond, Esq., from whom it came by devise to his nephew, Nathaniel, barrister-at-Law, the present owner.—"Hist. of Dorset," vol. i. p. 254.

Bonds are well known in Dorsetshire. But George Bond does not appear to have belonged to that family.

Nathaniel Bond, of Lutton, in the Isle of Purbeck, was born in 1634 at Steeple. His ancestors had settled there for more than two hundred years. Bond was admitted a student of the Inner Temple on the 14th of April, 1654, and was called to the Bar on the 26th of May, 1661.

In 1679 he sat for Corfe Castle, and, in the next year, for Dorchester, and again for Dorchester in 1695. In 1699 he was made Recorder of Poole.

On the 2nd of May, 1688, he was made a Serjeant and knighted, and in 1693 he became a King's Serjeant.[1]

When Queen Anne ascended the throne, Sir Nathaniel with others were "left out from being Queen's Serjeants." Sir Nathaniel was one of the two ancient Serjeants.

He died on the 31st of August, 1707, and was buried at Steeple, on the 1st of September.

His first wife was Elizabeth, the youngest daughter of the Rev. John Churchill, Rector of Steeple. She was baptized there, February 8, 1648. She was married there on the 21st of December, 1667, and died December 18, 1674, without children. She was buried in the chancel of Steeple on the 21st.[2]

[1] Wynne, pp. 88, 90.

[2] MS. From the privately printed pedigree of the Bond family, by Thomas Bond, of the Inner Temple. London: 1839.

On the 3rd of August, 1675, the Serjeant took for his second wife Mary, the widow of Thomas Browne, Esq., the only son and heir apparent of John Browne, of Frampton, Dorset, Esq., and daughter of Lewis Williams, of Shitterton, Dorset, Esq., who was the grandson of Sir John Williams, of Herrington, Dorset, Knight. He was married to the lady at East Morden, Dorset. She survived her husband for many years, and died on the 10th of August, 1728, in the eighty-seventh year of her age, and on the 13th was buried at Steeple.[1] By her the Serjeant had issue, amongst others, the father of the Right Honourable Nathaniel Bond.[2] He died possessed of a good estate. It seems that in 1660 he purchased Lutton of his elder brothers, John Bond, Doctor of Laws, and William Bond, who suffered a recovery, for the purpose of the conveyance. He bought also of John Lawrence, Esq., in 1683, Tyneham, where a branch of his descendants might have been found at a late date. And he likewise acquired from John Lawrence first the reversion in 1686, and subsequently the absolute property in Grange, in 1691.[3]

[1] MS. [2] Burke's "Landed Gentry," tit. "Bond of Grange."
[3] MS., Burke, as above.

SIR JOHN TREMAINE.

Serjeant-at-Law, 1689.

THE Tremaines, or Tremaynes have been established in Cornwall for some centuries. John Tremaine was the son of Colonel Lewis Tremaine, of Heligan, near St. Austell, by Mary, daughter and heiress of John Carew. The Colonel was Lieutenant-Governor of Pendennis Castle.[1] The estate of Heligan was purchased by the family early in the seventeenth century, and Heligan House was built by the Serjeant about 1692.

Tremaen, indeed, signifies a stone house, a dwelling of stone; the stone town.[2] It is said that Heligan was built in addition to some rooms of an old house in the same place. Those places called Kestell Castle, belong to the manor.[3]

Gilbert further writes:—"Hal-liggen in this parish, is the dwelling of Sir John Tremayne, Knight, Serjeant-at-Law, who married, but died without issue. His father, Colonel Lewis Tremayne, married ——— Carew, of Penwarne."

[1] MS.

[2] Gilbert's "Cornwall," vol. iv. p. 60; and see *Id.* vol. iii. p. 63.

[3] *Id.* vol. i. p. 419.

He adds:—"It should be noticed, that the late Mr. Tremayne greatly improved the house built at Heligan by Serjeant Tremayne, that his son has carried the improvements still farther, and rendered the whole place the finest in Cornwall."[1]

Mr. Tremaine, with many other counsel, was created a Serjeant on the 2nd of May, 1689. The rings had the motto, "Veniendo restituit rem." manifestly in honour of the new Sovereign. There was, afterwards, a splendid dinner, at Serjeant's Inn, Fleet Street.[2]

On the 31st of October, 1689, he received the honour of knighthood from King William, in company with several Judges and Serjeants. Amongst the latter were Hutchins, Trenchard, and Wogan.[3]

In 1692 Sir George Trely was made Chief Justice of the Common Pleas. He was Recorder of London, and there was a competition for this honoured place. Selby, Serjeant Lovel, and Sir John were the candidates. Lovel, afterwards Sir Salathiel, and a Baron of the Exchequer was elected.[4]

The name of this Serjeant appears occasionally in the "State Trials." His early death probably prevented him from making a more considerable figure.

[1] Gilbert's "Cornwall," vol. i. p. 424; and see p. 416.

[2] Wynne's "Serjeants-at-Law," pp. 88, 89. We have several Cornish Serjeants:—Sir John Glanvile; his descendants, at all events, were Cornish; Thomas Carthew, Charles Bonython, George Beare, John Glynn.

[3] Luttrell's "Diary," vol. i. p. 598.

[4] Luttrell, vol. ii. p. 476; "Gent. Mag." vol. xlix. p. 535; vol. liii. p. 835. —"Lists of Recorders."

He was, however, counsel for the Crown in 1691 against Sir Richard Grahme, otherwise Lord Preston, for high treason; and, although the Solicitor-General (Somers) was the leader, Sir John took a prominent part, in examining the witnesses and managing the evidence. He was also in the case of Mr. Ashton, who was tried for the same offence. Both were convicted, but Lord Preston obtained a pardon.[1]

In the next year he was with Sir William Williams and other eminent lawyers in the famous trial of the Duke of Norfolk against Sir John Germaine, upon a charge of adultery against the Duchess. Tremaine insisted very much upon the absence of lascivious or indecent action between the parties within six years, but the jury found for the Duke, with, however, only 100 marks damages, and costs. Upon this, Holt, C. J., severely reprimanded them, for giving so small and scandalous a fine.[2] "The slightness of satisfaction was almost as great a reproach as the crime itself."[3] This obscure passage meant impliedly that the verdict was no compliment to the Duke. The Duke was desirous of a bill of divorce in the first instance, but their Lordships being unwilling to proceed in the affair before there were some proofs of the fact made in the course of the Common Law, the action was brought, in order to satisfy the doubt.[4]

[1] "State Trials," vol. xii. p. 625.
[2] *Id.* p. 927.
[3] "Kennett's "Hist. of England," vol. iii. p. 661.
[4] *Ibid.*

Sir John died in January, 1694,[1] and on February 22nd, Serjeant Gould was made King's Serjeant in his room.[2]

There is a pedigree of Tremaine in Tuckett's "Pedigrees of Devon," but the Serjeant's name does not appear.[3]

[1] Luttrell's "Diary," vol. iii. p. 272. [2] *Id.* p. 273.

[3] P. 117. The Tremaynes of Collacombe, near Laverton, are mentioned in Westcote's "Devon," by Oliver and Jones, p. 587.

SIR JOHN TRENCHARD, KNT.

Serjeant-at-Law and King's and Queen's Serjeant, 1689. Chief Justice of Chester.

JOHN TRENCHARD was of a Dorsetshire family, seated at Wolverton in that County.[1] He was born on the 13th of March, 1640.[2]

He was entered at New College, Oxford, and became a Fellow,[3] and was afterwards admitted a student at the Middle Temple.

In 1678 he was returned for Taunton, and joined the Whig party. He was again returned a member for that town in 1681.[4] In this year, White Kennet, afterwards Bishop of Peterborough, at the age of twenty published, "A Letter from a Student at Oxford to a Friend in the Country, concerning the approaching Parliament, in vindication of His Majesty, the Church of England, and the University."[5] This pamphlet gave great offence to the Whig party, and inquiries were made after the author, in order that he might be

[1] Noble's "Granger," vol. i. p. 148.
[2] *Ibid.*
[3] "Biogr. Brit." vol. vi. p. 175 A. [Trenchard.]
[4] *Ibid.*—Noble's "Granger," vol. i. p. 149.
[5] "Biogr. Brit." vol. iv. p. 2821 [Kennet.]

punished. Mr. Trenchard, then Member for Taunton, was very active upon this occasion, and, upon his affirming his knowledge that the paper had been written by an Oxford scholar, the Vice-Chancellor was desired to find out the author, but the sudden dissolution of the Parliament put an end to the whole matter.[1]

In 1688 Mr. Trenchard was returned for Thetford. Although, having become involved in politics, he did not rise to the highest ranks of his profession, he had commanded sufficient business to be called by William the Third to take upon him the degree of the coif. This dignity was conferred upon him on the 21st of May, 1689,[2] and he received the honour of knighthood in the following October, and, about the same time, he became one of their Majesties' Serjeants.[3] He was, moreover, a lawyer of sufficient standing and ability to be appointed Chief Justice of Chester. And he had interest enough to obtain the unusual privilege of naming a deputy, when he became Secretary of State.[4]

But Mr. Serjeant Trenchard's chief distinction was in the Cabinet. For the honour of political office, he

[1] "Biogr. Brit." vol. iv. p. 2821 [Kennet] note (C.)

[2] Noble's "Granger," vol. i. p. 148.

[3] Luttrell's "Diary," vol. i. p. 598. There was a goodly array of Serjeants at the Revolution, as well as at the Restoration. John Thurbarne was made a Serjeant on the 11th of April, 1689. He was one of the supporters of the canopy at the Coronation of William and Mary. He sat in several Parliaments.—Boys's "Collection for a History of Sandwich," p. 351.

[4] Luttrell, vol. iii. p. 66.

surrendered any hope he might have had of greater promotion in the law, and preferred that "all dispatches to the fleet should goe through Mr. Trenchard's hands,"[1] rather than he should give the rule in the Courts.

He did not, however, gain this coveted post without having previously encountered a considerable hazard of life and estate. He had been, as we have seen, returned for Taunton, which was the hotbed of insurrection during the later years of the Stuarts. The Rye House Plot failed, as it is well known, through an accident by fire, which befel the King's house at Newmarket, compelling him to return to London. Trenchard was at Taunton, endeavouring to foment the general discontent, and giving assurances to the conspirators that the disaffected town should be in arms at a minute's warning.[2] But, according to Sir John Dalrymple, he sent word that the people there were not ready, "hiding his own fears under those of other men."[3] Nevertheless, he was in imminent danger, for Colonel Rumsey, who with Walcot betrayed the cause they had espoused, swore, that at Shepherd's "there was some discourse of Trenchard's undertaking to raise a body out of Taunton, and of his failing in it."[4] But Lord Russell, upon his examination, declared that he had heard nothing

[1] Luttrell, vol. iii. p. 256.
[2] Sir John Dalrymple's "Memoirs," vol i. p. 21.
[3] *Id.* p. 25.
[4] Burnet's "Own Times," p. 547, marg.

relating to Trenchard. It was either a fiction of Rumsey's, or it had passed between him and Armstrong, when walking about the room, or tasting the wines at Shepherd's. He had not heard a word of it. Lord Howard, however, who was not much credited, upon his examination, made the same unfavourable statement as to Trenchard, but still, upon the mere hearsay of the Duke of Monmouth.[1] Lord Russell behaved nobly. When he heard that Trenchard had failed, he said he would put on his boots, and go to Taunton himself, and make the people rise.[2] Yet not a word concerning Trenchard escaped him.

"But one point of Trenchard's guilt was well known; he was the first man that had moved the exclusion in the House of Commons; so he was reckoned a lost man."[3] The Government, however, were not yet in a career of boundless licence. Jeffreys, not yet in the full tide of blood. The bearing and sarcasm of Sidney had appalled even Jeffreys. Hampden was allowed to escape with his life, and the inferior conspirators do not appear to have been much sought for. Nevertheless, the Serjeant was not altogether free from apprehension. For, in 1685 a proclamation was out, to require, amongst others, John Trenchard, Esq., to appear before the King, or sur-

[1] Burnet's "Own Times," vol. i. p. 551.

[2] *Id.* p. 574, note, citing "Life of James II.," published from the Stuart papers, vol. i. p. 742.

[3] *Id.* vol. i. p. 548.—Noble's "Granger," vol. i. p. 149.

render in twenty days.[1] He, probably, was not forthcoming. Fortunate in escape, he yet had the resolution to join Monmouth, and again fled in safety to the Continent.[2] It is said that he was at dinner with Mr. Speke, of Ilminster, when the news of Monmouth's defeat arrived. He instantly mounted his horse, and advised his host to do the same. He then went to Litchet, but, instead of going to his house, concealed himself in the Keeper's lodge, whom he sent to secure a passage on board a vessel at Weymouth. Speke was hung before his own door.[3]

The Revolution, at length, turned the current of Trenchard's fortunes. He came back to his country, and sat for Dorchester in his native shire, in 1688 and 1690.[4] In 1690 he was elected for Poole, and died a Member for that Port. The Prince of Orange, unlike the Second Charles, was mindful of his friends. He soon found Trenchard a devoted subject. He at once created him a Serjeant, and soon after one of his own Serjeants.[5] He had been one of the famed Green Riband Club, and was exempted from the general pardon of 1686.[6] But Macaulay fails to add, that he was expressly pardoned by a special instrument, in 1687.[7] Efforts, however, were made to gain the

[1] Noble's "Granger," vol. i. p. 149.
[2] Burke's "Commoners," vol. iv. p. 78, n.
[3] Noble, as above.
[4] Wynne's "Serjeants-at-Law," pp. 88, 90.
[5] Macaulay's "Hist. of England," vol. vi. p. 385, ed. 1858.
[6] "Notes and Queries," I. vol. v. p. 544.
[7] Luttrell's "Diary," vol. i. p. 355.

learned lawyer and statesman. In 1687, the year before James's flight, a special pardon was issued under the Great Seal, discharging John Trenchard, late of the Middle Temple, Esq.[1] from all treasons, crimes of lese-Majesty, misprisions of treason, &c.[2]

It is well known that William Penn had a great influence over James the Second. He had survived the persecutions of Charles, and sought to mitigate the bigoted tendencies of the Roman Catholic monarch.

Trenchard was a Whig, and Penn wished to see that party taken into greater confidence. So he carried Trenchard, Treby, and Mr. Lawton to the royal closet, and urged them to speak openly to the King, disguising nothing of the state of the nation, but placing before him in its true aspect the general opinion as to his course of policy. James was sometimes deeply impressed with these discourses. Trenchard was an accomplished courtier; he had been one of the Holland exiles, and owed his restoration to his native land to Penn.[3]

"Lawton, a young man of parts and spirit, had attracted Penn's notice; in politics he was a State

[1] "Pardonavimus." "Teste me ip assare West. decimo Septº. die Decembris anno regni nºri [nostri] tertio. "Notes and Queries," vol. i. V. pp. 496, 544.

[2] *Id. Ibid.* There appears to be no discharge from felonies, but treason is felony. See a curious letter respecting this subject of the pardon, pointing out some inaccuracies, "Notes and Queries," vol. i. V. p. 544; and another, vol. i. 5, p. 592.

[3] "William Penn," by William Hepworth Dixon, ed. 1851, p. 321.

Whig, and it was at his instance that Penn had braved the King's frowns, by asking a pardon for Aaron Smith. One day over their wine at Popple's, where Penn had carried Lawton to dine, he said to his host: 'I have brought you such a man as you never saw before; for I have just now asked him how I might do something for himself, and he has desired me to obtain a pardon for another man! I will do that if I can; but,' he added, turning to Lawton, 'I should be glad if thou wilt think of some kindness for thyself.' 'Ah,' said Lawton, after a moment's thought, 'I can tell you how you might indeed prolong my life!' 'How so?' returned the mediator: 'I am no physician!' Lawton answered: 'There is Jack Trenchard in exile. If you could get leave for him to come home with safety and honour, the drinking of a bottle now and then with Jack, would make me so cheerful, that it would prolong my life.' They laughed at the pleasantry; and Penn promised to do what he could. He went away to the Lord Chancellor, got him to join in the solicitation, and in a few days the future Secretary was pardoned, and allowed to return to England."[1]

As Trenchard knew the exiles, and the opinions current in Holland, Penn felt how serviceable he might be if James would only listen to his advice. That they produced a powerful diversion of sentiment is certain; and things were so near a change at one moment, that Penn was actually sent by the King to

[1] "William Penn," by William Hepworth Dixon, p. 321.

Mr. Somers, with an offer of the Solicitor-Generalship. This was before it was offered to Sir William Williams, and, consequently, before the trial of the seven prelates.[1]

In 1693 Sir John was sworn of the Privy Council,[2] and received the seals as Secretary of State in the room of Lord Sidney.[3] In November of that year he became the Upper Secretary, not without a certain feeling of jealousy, so that it was surmised by some that he might be sole Secretary for some time.[4]

Burnet says, that he had been engaged for some time with the Duke of Monmouth, that he got out of England, and lived some years beyond sea, and had a right understanding of affairs abroad.[5]

"He was a lawyer and a Serjeant," says Speaker Onslow in a note to Burnet. "Lechmere (afterwards Lord Lechmere) having a desire to be Secretary of State in George the First's reign, and it being objected to him, that he was of the profession of the law, and unused to the business of a Secretary of State, mentioned this instance of Serjeant Trenchard, to which he was answered, that 'Trenchard never was *Secretary of State*,' meaning that he was not in the secret of affairs. This I had from Sir R. Walpole."[6]

[1] "William Penn," by William Hepworth Dixon, p. 322.

[2] Luttrell's "Diary," vol. iii. p. 61.

[3] Burnet's "Own Times," vol. ii. p. 108.

[4] *Id.* p. 222.

[5] *Id.* p. 108.

[6] Note to p. 108.—Macaulay's "History of England," ed. 1858, vol. vi. p. 386.

Sir John was appointed in August, 1793, with the Lord Keeper, Lord Chief Justice Holt, and others, to hear complaints as to the miscarriages of the Turkey fleet, and consider of the means to preserve that trade for the future.[1]

His chief exertions, however, as Secretary, were to repress the Jacobites. And this is the meaning of Macaulay's quotation. "He [Trenchard] was little more than a Superintendent of Police, charged to look after the printers of unlicensed books, the pastors of non-juring congregations, and the haunters of treason taverns."[2] Macaulay's abuse of him must, however, be regarded with jealousy.[3] Justice was not done to the Serjeant. He was, indeed, earnest against the Jacobites; but no sooner did the grave close over him, than the rebels began to raise their stunted forces, and expanded themselves into those treasons which cost the lives of Rookwood, Fenwick, Parkyns, and others, known to history. Whilst he lived there was an active search after the malcontents, and, undoubtedly, strong measures were employed.[4] The most unfortunate event for Trenchard was a blunder

[1] Luttrell, vol. iii. p. 166.

[2] Macaulay's "England," ed. 1858, vol. vi. p. 385.

[3] "Had Trenchard himself," says the historian, "inclined to lenity, he would have been urged to severity by those who surrounded him. He had constantly at his side Hugh Speke and Aaron Smith, men to whom a hunt after a Jacobite was the most exciting of all sports. The cry of the malecontents was, that Nottingham had kept his bloodhounds in the leash, but that Trenchard had let them slip."—Ed. 1855, p. 517.

[4] See *Id.* vol. vii. pp. 143, 144.

made by the Treasury respecting a man named Taaffe, an informer. Upon his information messengers and search-warrants were sent to Lancashire. One, Lunt, was persuaded by Taaffe to turn approver, and he confirmed the story.

In one house a Commission, signed by James, was found, in another a quantity of arms and armour was discovered in a place of concealment. A special Commission was determined upon. Taaffe now looked for his reward; but he had been found pilfering trinkets, broad pieces, and the Communion plate of the Popish families, so that all his hoped-for gains were lost in a refusal, accompanied by a stern reprimand. This honesty, or want of policy on the part of the Government, was fatal to the prosecution. Taaffe, enraged and spiteful, threw himself into the hands of the accused. His alliance was as important to the disaffected as his hostility would have been dangerous. So the Jacobites accepted the tender of his services. They gave him a sum in hand; they promised him a comfortable annuity when the matter was over; they sent him into the country, and kept him in strict seclusion till the trial.[1]

Numerous pamphlets, and a letter to the Secretary of State, noted in particular for its ability, appeared.

[1] "A True History of the Several Designs and Conspiracies against His Majestie's [Wm. III.] Sacred Person and Government, from 1688 till 1697, by R. Kingston, London, 1698, p. 120; Macaulay's "England," ed. 1858, vol. vii. pp. 144, 157.—Burnet's "Own Times," Oxford, 1823, vol. iv. p. 248.

They were universally circulated, and especially in the county where the trials were to take place. Nevertheless, the Government persevered. Four Judges went to Manchester. Lunt, the informer, was produced, but became so bewildered that he mistook one person for another, and did not recover till the Judges took him out of the hands of the aged and crabbed Crown Counsel, Sir William Williams. Laughter and clamour amongst the crowd accompanied the evidence so inartificially conducted. At length, to the dismay of the prosecutors, Taaffe entered the box. He unhesitatingly swore that the whole story was a circumstantial lie, devised by himself and Lunt. Williams threw down his brief. The trials were at once at an end. The witnesses for the Crown were pelted out of Manchester, the Clerk of the Crown narrowly escaped with life, and the Judges took their departure amidst hisses and execrations.[1]

If the Secretary became unpopular by reason of these untoward incidents, he had, at least, considering his by-gone dangers, been prosperous. But his prosperity was not to last. That fell disease, decline, was winding its insidious snare to destroy him. He had

[1] Macaulay's "England," ed. 1855, pp. 518—524. The case of Newbolt and Butler terminated more favourably for the Government. There was a conviction for high treason; "State Trials" (Jardine), vol. xv. p. 1404, from the "Harl. MSS.," No. 6846, Art. 104, fol. 335; Kingston's "True History," 1698, p. 130. See the curious history of this case, *Id.* pp. 120—162; Burnet, Oxf., 1823, vol. iv. p. 251.—See Luttrell's "Diary," vol. iii. (1693) August, and (1694) September.

been ill, but returned at Michaelmas, 1694, to London, "perfectly recovered."[1] Yet Luttrell tells us, that no later than November after this, "Secretary Trenchard is relapsed to his consumption."[2] The same Diarist writes, that on the 4th April, 1695, the Secretary was given over by his physicians.[3] And on the 30th of the same month he died at Kensington.[4]

He held his Chief Justiceship to the last, although the gossip of the day put Sir William Wogan, the Senior Welsh Judge, in his place when he accepted the seals, and Mr. Coombes, whom he had appointed his Deputy Judge, succeeded him.[5]

He married Philippa, daughter of George Speke, of White Lackington, Esq.[6]

"In Bloxworth Church, in the aisle, on the west wall, near the entrance, is a small mural monument of white marble. On the top are the arms and crest of Trenchard, imp. A., two bars, Az. over all, an eagle displayed, G.

"'Here lieth the body of Sir John Trenchard, Kt., of the ancient family of the Trenchards, in Dorsetshire. He was called to the degree of Serjeant-at-Law, and made their Majesty's Serjeant by k. William and q. Mary, and also Chief Justice of Chester, and principal secretary of State, which office he faithfully discharged till his death. He was born March 30, 1640, and dyed April 27, 1695, in the 55th year of his age.

---

[1] Luttrell's "Diary," vol. iii. p. 376.

[2] *Id.* p. 401.

[3] *Id.* p. 457.

[4] *Id.* p. 466.

[5] *Id.* pp. 468, 472.

[6] Burke's "Commoners," vol. iv. p. 78, n. where an account of the family appears.

"'He left four sons—George, Henry, John, and William; and three daughters—Elizabeth, Mary, and Anne, by dame Philippa, his wife,
Who
This Monument has
Erected to his
Memory.'

"On a stone on the floor below:

"'Here lieth Sir John Trenchard, Kt., his majesty's principal Secretary of State. Dyed April 27, 1695.'"

"On the north wall" are the arms of the Savages.[1] Macaulay says, with some rancour, that "Speke was one of the falsest and most malignant of the libellers who brought disgrace on constitutional freedom."[2] And again: "Aaron Smith, the Solicitor of the Treasury, in whom the fanatic and the pettifogger were strangely united, possessed too much influence over the new Secretary, with whom he had, ten years before, discussed plans of rebellion at the 'Rose.'"[3]

Macaulay goes on to express his surprise at the promotion of Trenchard.[4] But he must have known that Trenchard had twice risked his life for King William, that he had slighted King James's pardon, and that he had been faithful to his political creed. He was likewise well qualified by experience for the office.

[1] Hutchins's "Dorsetshire," vol. i. p. 106.—Burkes's "Commoners," vol. iv. p. 78, n.

[2] Macaulay's "History of England," ed. 1858, vol. vi. p. 385.

[3] *Ibid.* [4] *Ibid.*

Macaulay should have distinguished the Prince of Orange as an example of a Whig capable of gratitude to his friends.

As we have mentioned, according to the monumental inscription, he had four sons and three daughters—George, Henry, William, Elizabeth, Mary, Anne.[1]

George, the eldest. He sold the family estate of Bloxworth to his son-in-law, Jocelyn Pickard.[2]

John. He wrote much against standing armies, and likewise Cato's "Letters."[3]

Anne married in 1738 Edward Searle, Esq.[4]

The Lady Philippa was buried at Bloxworth in 1743, Æt. 79.[5]

There were three Members of Parliament of the family of Trenchard, about this period returned for places in the western counties. They had great interest, which they retained for many years after the death of the Secretary.[6]

There was a Mr. Trenchard, a grandson of Sir John, who was a Commissioner of Taxes. He died at the age of eighty-three on December 26, 1819.[7]

A portrait of Secretary Sir John Trenchard will be found in Noble's "Continuation of Granger." It was

[1] Hutchins's "Dorsetshire," vol. i. p. 106.

[2] Noble's "Granger," vol. i. p. 149.—Hutchins's "Dorsetshire," vol. i. p. 105.

[3] Noble's "Granger," vol. i. p. 149.

[4] Hutchins's "Dorsetshire," vol. i. p. 107.

[5] *Ibid.*

[6] Noble's "Granger," vol. i. p. 149.

[7] "Ann. Biogr.," 1821, p. 302.

engraved from a miniature picture, by Ozias Humphry, after the original, and inscribed to the Serjeant, by Cantlo Bestland. He is there represented as of Bloxworth, in Dorsetshire.[1]

His countenance bears no sign of great talent. It corresponds with his character, which was calm and sedate, and seems to acknowledge no affinity with the desperate designs in which he was, doubtless, involved in the days of Charles, but in which he had scarcely the courage and conduct materially to assist. The conspiracy, indeed, to which, as Member for Taunton, he felt bound to incline, was throughout a display of weakness, irresolution, and superstition.[2]

Burnet declares him to have been a moderate man, more than could have been expected from the leader of a party.[3]

It is highly to the honour of Trenchard that he supported, as well as encouraged, men of genius and learning. The writer of "Authors by Profession or Trade,"[4] mentions Thomas Gordon, the reputed editor of the "Independent Whig" as indebted for substantial aid from "Trenchard and Collins." And, upon the death of the former, a handsome legacy, and all the Serjeant's books, were left to Thomas Gordon;

[1] Noble's "Granger," vol. i. p. 148.

[2] The fire at the King's house was looked upon as an *omen*, and all the arts of Ferguson could never rouse his associates again.—Sir John Dalrymple's "Memoirs," *ante*.

[3] Burnet's "Own Times," vol. ii. p. 108.

[4] "James Ralph," p. 239.

and, upon this recommendation, Sir Robert Walpole not only took the author and his Tacitus under his protection, but made him a Commissioner of the Wine Licences, in the possession of which office Mr. Gordon died.[1]

The Secretary died possessed of property in his native country. The manor, advowson, and capital messuage of Bloxworth, with a fishery, parcel of the possessions of Cerne Abbey, belonged to the Savages of that place, who sold them to Sir John. But when his son, George, married his eldest daughter, Henriette, to Joseph Pickard, of Lincoln's Inn, he, in his turn, as we have intimated, sold the estate to his son-in-law.[2]

[1] Ann. Reg., 1762, p. 177.
[2] Hutchins's "Dorsetshire," vol. i. p. 105.

THE STRODES.

GEORGE STRODE—THOMAS STRODE.

[Mrs. M. G. Strode, née Brabazon, has very kindly allowed the author to see the "Strode Papers."]—See "Sir Henry Finch," *ante* p. 391.

THE STRODES were amongst the most ancient families in Dorsetshire.[1] The Strodes of Parnham were a family of distinction in very early times,[2] of high consideration and large estate.[3]

[1] See as to this family generally, Wood's "Athenæ," vol. iv.; Hutchins's "Dorsetshire," [vol. iv. p. 372; "Notes and Queries," 2 vol. iii. p. 112; Burke's "Landed Gentry," "Strode;" Burke's "Commoners," vol. ii. p. 117. —Westcote's "View of Devon," by Oliver and Jones, Exeter, 1845, p. 542.

[2] Hutchins, vol. iii. p. 297.

[3] Burke's "Landed Gentry," "Chetham Strode, of Southhill."

A Strode sat for Wareham in 1592, 35 Eliz.—Willis's "Not. Parl.," vol. iii. p. 129.

SIR GEORGE STRODE, KNT.

Serjeant-at-Law, 1674—King's Serjeant, 1675.

GEORGE STRODE was the second son of Sir John Strode, of Parnham. He was born in 1626.

He was called to the Bar by the Bench of Lincoln's Inn.

He was a Royalist, and joined the King's standard at an early age, and he was, no doubt, the George Strode who is mentioned amongst the wounded at Edgehill fight.[1]

After the Restoration he sat for Lyme Regis.[2]

George Strode was advanced to the coif on January 29, 1674,[3] and, in the next year, he was made a King's Serjeant.[4]

He had, during the reign of Charles the Second, considerable business in the Court of Common Pleas.

He, however, must have given offence to James the Second, for, on the 16th of April, 1687, he was discharged from his rank.[5] This happened at the time

[1] Beesley's "History of Banbury," p. 231.
[2] Burke's "Commoners," vol. ii. p. 118.
[3] Wynne, p. 82.
[4] *Id.* p. 83.
[5] "Autobiography of Sir John Bramston, K.B.," pp. 274, 278.

when many judicial changes were made, Roman Catholics rising into considerable favour, and occupying seats on the Bench.

The death of this Serjeant is commemorated by his epitaph. In the parish of Long Burton, Dorset, in the hundred of Shorbourne, was the mansion of *Leweston*. Near the house a chapel was built by Sir John Fitzjames, about the close of the sixteenth century. Sir George's monument was in this structure.

"Here lieth Sir George Strode, Kn^t^. and Serjeant-at-Law, second son of Sir John Strode, of Parnham, and Ann his wife, eldest daughter of Sir John Wyndham, of Orchard, in the County of Somerset. He married Grace, one of the daughters and co-heirs of Sir John Fitzjames, of Loweston, who was buried in the parish of Long Burton, but removed from thence to this vault, where they both rest together, in hopes of a joyful resurrection. He was in the 75th year of his age, and died Oct^r^. the 24^th^, 1701.[1]

There was another Sir George Strode, of the Inner Temple, cousin and heir-at-law of Sir William Lytton. He died June 9, 1707, and was buried at Itchingham, Sussex. This last Sir George married Margaret, daughter of John Robinson, of Guersylt, Denbigh, Esq. She, after his decease, found a second husband, in Charles Selby Amherst, Esq., of Bayhall, Kent, and died without issue, December 11, 1715.[2] He was descended from Serjeant Amherst,[3] and was connected

[1] Hutchins's "Dorset," vol. iv. p. 13. See p. 14.

[2] Hasted's "Kent," vol. ii. p. 358.—Bray's "Genealogies, Herts," p. 7.

[3] Richard Amherst was seated at Bay Hall, in Pebenbury, alias Pembury, in the County of Kent, which estate he purchased; and at Lewes, in the County of Sussex. Having applied himself with great assiduity to the study of the law, he was called to the degree of Serjeant-at-Law, and was made Serjeant to

with Sir William Selby, Serjeant-at-Law, and Recorder of London.[1]

Sir George Strode had one daughter, Grace, the sole heir to his property and estates. She married the Honourable Henry Thynne, the eldest son of the first Viscount Weymouth, who died in 1714, after the decease of his son. Two daughters, co-heiresses, were the issue. Frances, who married Algernon Seymour, Lord Percy, and 7th Duke of Somerset,[2] from whom the Dukes of Northumberland and Athole were descended;[3] and Mary, who married William Greville, 7th Baron Brooke, ancestor of the Earl of Warwick.[4]

Sir George Strode died in the possession of very considerable estates. By his will, dated June 25, 1700, he bequeathed to John Windham, George Strode, and Thomas Strode, merchant, his own brother, his manors, lands, advowsons, and impropriations of Lewston, Long Burton, Little Burton, Holnest, Lillington, Little Herrington and North Witton, Dorset; and Chilton, Cantelo, and Barrow, or Barewe,

Queen Elizabeth; he was also High Steward of all the manors, lands, and possessions within the County of Sussex, belonging to Thomas Sackville, Earl of Dorset, Lord High Treasurer of England, which Earl, by his will, dated August 11th, 1607, therein styling him his beloved friend, bequeathed to him forty pounds. He was founder of the almshouses at Pembury, where he was born. His will bears date, August 8th, 1630, and the probate, May 3rd, 1632." He was an ancestor of Lord Amherst.—Collins's "Peerage," vol. viii. p. 162.

[1] Hasted's "Kent," vol. ii. p. 358.

[2] Burke's "Peerage," 1868, tit. "Marg. of Bath." There is more about the Strodes in the "Visitation of Somerset," Sir Tho. Phillipps, p. 138.

[3] MS. [4] MS. and Burke, as above.

Somerset, to the uses of the will, and for the benefit of Grace, his daughter. He then entailed these estates upon his daughter's children, remainder to the Strodes of Parnham.[1] Grace Strode died in 1725.[2]

[1] Hutchins's "Dorset," vol. iv. p. 12. It is further said, that Sir George died in April, 1702, but this must be a mistake. See the Epitaph, *ante*.

[2] Hutchins, as above.

THOMAS STRODE.

Serjeant-at-Law, 1677.

THOMAS STRODE belonged to the Dorsetshire family. He was of Lincoln's Inn. On the 23rd of Oct., 1677, he was made a Serjeant-at-Law. Sir John Shaw was his companion of Lincoln's Inn. Sir John was of Essex. "Here lyeth the body of Sir John Shaw, Kn^{t}. Serj^{t}.-at-Law, who died Jan^{ry}. 13, Anno Dom^{i}. 1681.[5]

It should be observed, that in the same call will be found the name of Sir Thomas Holt, son of the famous Lord Holt. He was a native of Reading, and Recorder of the borough in 1685.[1][2]

In 1680 Serjeant Strode managed the evidence against the Roman Catholic Priests, Anderson and others, for high treason. Lionel Anderson was tried alone. The charge was, that he, being a Romish Priest, did come and abide in the realm. "Not that his priesthood is the crime," said the Serjeant: "No; it is his being a subject of the King's, and owning an

[1] "Hist. of Colchester," 1803, vol. ii. p. 24.

[2] Coates's "Reading," p. 435.

authority from abroad." A letter from Lady Powis came to him, which he injudiciously showed to Dangerfield. The material words were: "Sir, you must desire Willoughby to scour his kettle." That meant, to confess and receive the sacrament; to be true to the cause. "When I had received the sacrament," continued Dangerfield, the Priest "did tell me, that he, as a Priest, did give me free toleration to go and be drunk, and drink with one Stroudes." I asked, "whether I might lawfully do it, having just received the Sacrament." He said, "Yes; he gave me authority so to do, being for the good of the cause."[1] Anderson then declared the witness to be the greatest rogue in England, and denied the facts, but the Court stopped him.

Then Strode set up the famous Titus Oates, and subsequently Bedloe and Praunce, by whose evidence Anderson and several others were convicted.[2]

He seems to have conducted himself with moderation. Antiquity of family is often productive of gentle manners.

In the same year, Serjeant Thomas Strode was counsel for Benjamin Harris, the Bookseller. The Recorder, Jeffreys, was for the prosecution. This was an indictment for libel, and the title of the pamphlet was: "An Appeal from the Country to the City, for the Preservation of His Majesty's Person, Liberty, Property, and the Protestant Religion."

[1] "State Trials," vol. vii. pp. 834, 835.

[2] *Id.* pp. 837—882.

The Recorder behaved with his usual effrontery. "I hope;" thus he opened his address, "this being a matter to be tried in the City of London, persons coming here in great multitudes come to blush, rather than to give encouragement." After a strong torrent of abuse, quite reciprocated by Chief Justice Scroggs, the Serjeant struck in for his client with boldness. He would acquiesce, he declared, if a malicious intention had been proved, but here he gets some of the copies, and suffers them to lie up and down in his shop; being only a common way of trying to get money. This act was not within the information, for there was no intention to scandalize. But all this would not satisfy the Court. "There is scarce any but Smith," exclaimed the Chief Justice, "that is so factious a seller of books as Harris." "You know you have forfeited your recognizance in almost every book." Then a neighbour comes forward, to give the defendant a character, as a fair-conditioned, peaceable, good man.

Recorder: "A bookseller that causes a factious book to be printed or reprinted, is a factious fellow."

Scroggs, C. J.: "You say right."[1]

The jury did not retire for a long time. They returned with a verdict: "*Guilty of selling the book.*" This qualified announcement was well understood. And now there arose one of those turbulent scenes so common in those days between the Crown and the people. "At which" (that is the verdict) "there was

[1] "State Trials," vol. vii. p. 925.

a great and clamorous shout." The Lord Chief Justice exclaimed, that the selling of the book was not the business of the jury. "Guilty, or Not Guilty?" The Recorder then would have the finding returned by the poll, but the jury were intimidated, and brought Mr. Harris in "Guilty." The Lord Chief Justice then addressed the pliant jury thus:—"I am sorry you gave countenance to this cause so much as to stir from the Bar, when the evidence was so full, and when I told you plainly, not only my opinion, but likewise that of all the Judges of England, that selling the book was an offence at the common law. And yet, with your scruples, you give this party (with their halloos and shoutings) to take advantage; though you did mean upon the matter the same thing then you do now, yet you see, upon every little occasion, when a thing shall seem to thwart the Government, ready they are to send up their loud hallooings. Now, would I knew some of those shouters, I would make them know, I would punish them." Nothing in after days, when Jeffreys became Chief Justice, could torment him so deeply as these demonstrations in Court.

The sentence was a fine of £500, one hour's exposure on the pillory, and sureties for his good behaviour for three years.

Had it not been for Mr. Justice Pemberton, Scroggs would actually have added a public whipping to this judgment.[1]

[1] "State Trials," vol. vii. pp. 925—932.

In 1680 (December 21) an address was ordered to be presented to the King, for the remission of this fine.[1]

Thomas Strode, the Serjeant, died on the 4th of February, 1698. In the Chapel of Beminster, a Chapel of Ease to Netherbury, an elegant monument was erected to his memory. An effigy of him, of the life size, of white marble, stands upright under an arch. "The air and drapery of the figure are much admired." On the base is this inscription:—

"D. O. M. P. Q.[2]

"Mortalitâtis exuvias hic deposuit Thomas Strode, Serviens ad Legem, qui in Christo placide obdormivit. Feb. 4, 1698, Aetat suæ 70. Vir immortali memoriæ sacratus, jurisprudentiâ, pietate, et consilio insignis; moribus integris, jaxta ac suavissimis; Deo, principi, et amicis semper fidus. Patre Johanne Strode, equite aurato, de Parnham in Com. Dorset, oriundus. Charissimam sibi adscivit conjugem Mariam Adams, relictam de Parkinson Odber, armigero, ex quâ filiam suscepit unicam, adhuc superstitem, quæ hoc suprem-pietatis monumentum moestissima, et cum lachrymis gemens,

"L. M. D. P. Q."[3]

Other monuments of the Strode family are seen at a little distance.[4]

In Luttrell's "Diary," his death is thus recorded: "Mr. Serjeant Thomas Stroud is dead, leaving £30,000 to his only daughter.[5]

This Serjeant had only one daughter, but she had, according to Luttrell, a fortune of £30,000, which

[1] "State Trials," vol. vii. p. 932, n.

[2] "Deo Optimo Maximo Posteris que."

[3] "Libens merito dedit Posteris que."—Hutchins's "Dorset," vol. i. p. 452.

[4] *Ibid.* [5] Vol. iv. p. 481.

ensured a title for her in those days. She was engaged to Mr. "Thin,"[1] Lord Weymouth's son.[2] However, the Diarist some years afterwards, notes, that "A treaty of marriage is said to be on foot, between Mr. Thomas Foley, jun. and the only daughter of the late Sir Thomas Stroud, Serjeant-at-Law; her portion, £30,000."[3] So that the match with Mr. Thynne must have gone off.

This Serjeant, however, was, we believe, never knighted. In the next year, the Serjeant's position is rightly put.

"Thursday, 18th June [1695.]

"Thomas Foley, of Worcestershire, Esq., is married to the only daughter of the late Serjeant Thomas Stroud; her portion said to be £30,000."[4]

This gentleman was afterwards Lord Foley. Amongst other property, this lady brought him Graveston, or Graynston, in Dorset. Upon the death of her husband (her son, Lord Foley, confirming the grant,) she gave it to George Strode, of Parnham, and it now belongs, says Hutchins, to Sir William Oglander, Bart.[5]

[1] Thynne. [2] Luttrell's "Diary," vol. iii. p. 467; May 2, 1695.
[3] *Id.* vol. iv. p. 695; October 10, 1700.
[4] *Id.* vol. v. p. 485; June 18, 1702. See *id.* vol. iv. p. 481.
[5] "Dorset," vol. i. p. 568.

SIR WILLIAM THOMPSON, KNT.

Serjeant-at-Law, 1688—King's Serjeant.

MR. THOMPSON was of the Middle Temple, and was made a Serjeant on the 18th of June, 1688; and he was knighted at Whitehall, on the 31st of October, 1689.[1]

In 1680 the tide was about to turn against the Popish plot. Nevertheless, it was thought expedient to prosecute John Tasborough and Anne Price, for an offence which, in law, is called subornation of perjury; that is, an attempt to persuade a person to forswear himself. The particular charge was an alleged conspiracy to persuade the notorious Dugdale first, not to give evidence against, amongst others, Langhorne, the Jesuit; and secondly, to retract and deny all the evidence he had given. He was to keep himself away in secret, and to sign a note, acknowledging that he had been in error. Pollexfen, afterwards Chief Justice of the Common Pleas, and Thompson for the defendants.

Here is a specimen of the vulgarity of the times.

Anne Price: "Stand nearer me, Mr. Dugdale," who of course was the principal witness.

[1] Le Neve's "Pedigrees of Knights."—Harl. MS. 5802, fol. 33.

Attorney-General: "He stands near enough."

Serjeant Maynard: "He will be near enough you by-and-by, Mrs. Price."[1]

One more instance. Pollexfen for Mrs. Price. "In order to the bringing of truth to discovery, and to have a retractation, not of a truth, but of a falsehood, *and to preserve that witness from perishing, I may promise* him protection and subsistence."

Serjeant Maynard: "Then you have found out a better way than the devil himself could have suggested to uphold subornation."

Thompson for Tasborough: "Is my Lord Privy Seal in Court."

Jones, Justice: "*You know he is not here.*"

Pemberton, Justice: "You toss great names about, and make great noise with them, *when you know they* are not here."

Dolben, Justice: "It is a fine thing thus to make a long brief with, to no purpose."

Then there arose the usual wrangling between the Bench and the defendant, Mrs. Price, who spoke up like a woman, the counsel keeping warily out of the scuffle. . . . . .

The sequel was at hand. The Jury were informed by the Judges that nothing could be said for Mrs. Price, little for Mr. Tasborough. "I see nothing that can do him any good," said Judge Pemberton.

[1] Cobbett's "State Trials," vol. vii. p. 890.

Verdict, guilty; and the man was fined £100, and the woman £200.[1]

We find him in the same year counsel for the prosecution against Giles for the attempt to murder Mr. Arnold.

In these days garotting and other such savage behaviour are by no means uncommon. But this was a case much thought of at the time, and even more atrocious. Mr. Arnold was passing through Bell Yard, between ten and eleven at night, at the end of Jackanapes Lane. He was suddenly seized by two men, and hauled into the lane, where they gave him several wounds, and used him in the most barbarous manner. Mr. Arnold was a Justice, and zealous against the Popish plot.

Mr. Thompson appeared to lead for the prosecution, and conducted the case with prudence and fairness. The jury had no hesitation in pronouncing a verdict of guilty, and a heavy sentence of pillory and fine followed.

In the next year Slingsby Bethel, Esq., was tried at the Bridge House in Southwark for an assault upon Robert Mason at the election, and Mr. Thompson defended him. Mr. Bethel was Sheriff of the city, and, it appeared, was over-acting his part in endeavouring to keep the peace. His counsel made an ingenious speech for him, but without effect, and the

[1] "State Trials," vol. vii. pp. 881—926.

Sheriff was fined five marks, which he paid, and was discharged.[1]

Serjeant Thompson was soon afterwards made a King's Serjeant.

In 1691 he was the leading advocate for the prosecution against John Ashton for high treason.

The charge was, that the prisoner strove to acquaint the French King with the number of the English men-of-war, how they were manned, and how they might be surprised, so as to promote a successful invasion. The King's Serjeant opened the case with much moderation. The violent days of Jeffreys had gone by. He continued the same patience throughout the evidence. It had been supposed that Mr. Ashton was a Papist; but the Serjeant interfered, and said, "We have not objected anything as to his religion at all." And again, "My Lord, I would not press anything further than the nature of the thing would bear."

Holt, C. J.: "Pray go on, brother, we are only talking among ourselves."

The prisoner was found guilty, and was executed. Lord Preston, tried at the same time, was pardoned.[2]

In 1692 he was in the famous trial between the Duke of Norfolk and Mr. Germaine. He assisted in the prosecution. When some witnesses had been examined, he observed to the Court, "You see how far we are gone."

[1] "State Trials," vol. viii. pp. 747—758.

[2] *Ibid.* vol. xii. pp. 747—882.

Lord Chief Justice Holt: "All without the Statute."[1]

However, the plaintiff's counsel brought the time closer, and the Duke had a verdict.[2]

He next appeared as King's Serjeant upon the trial of Lord Mohun for the murder of Mr. Mountford. This event originated in a well-known quarrel concerning a woman, Mrs. Bracegirdle; but he did not take a very leading part. Lord Mohun was acquitted by his peers, the numbers being 69 for him, and 14 for a conviction.[3]

Sir William died before 1700. He left a son, William, who married in 1711 Dame Julia, a daughter of Sir John or Sir Christopher Conyers, of Horden, in Durham, Bart. She was the relict of Sir William Blackett, of Newcastle, Bart.; and Lysons mentions her tomb as being in Hampstead Churchyard.[4] This William Thompson was a person of distinction and consideration. He sat for Orford, Suffolk, and was one of the managers against Dr. Sacheverell. He subsequently became Recorder of London, Solicitor-General, and a Baron of the Exchequer.

[1] This meant six years, within which time the action must have been brought.

[2] "State Trials," vol. xii. pp. 927—948.

[3] *Id.* pp. 949—1050.

[4] "Environs of London," vol. ii. p. 537; Le Neve's "Pedigrees of Knights." Harl. MS., 5802, fol. 33; *Id.* "Memoranda in Heraldry."—"Topographer and Genealogist," vol. iii. p. 384.

END OF VOL. I.

00024291

Digitized with financial assistance from the
Government of Maharashtra
on 19 September, 2016